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—OF—

MINING LAWS,

—AND—

GUIDE TO NEW MEXICO.

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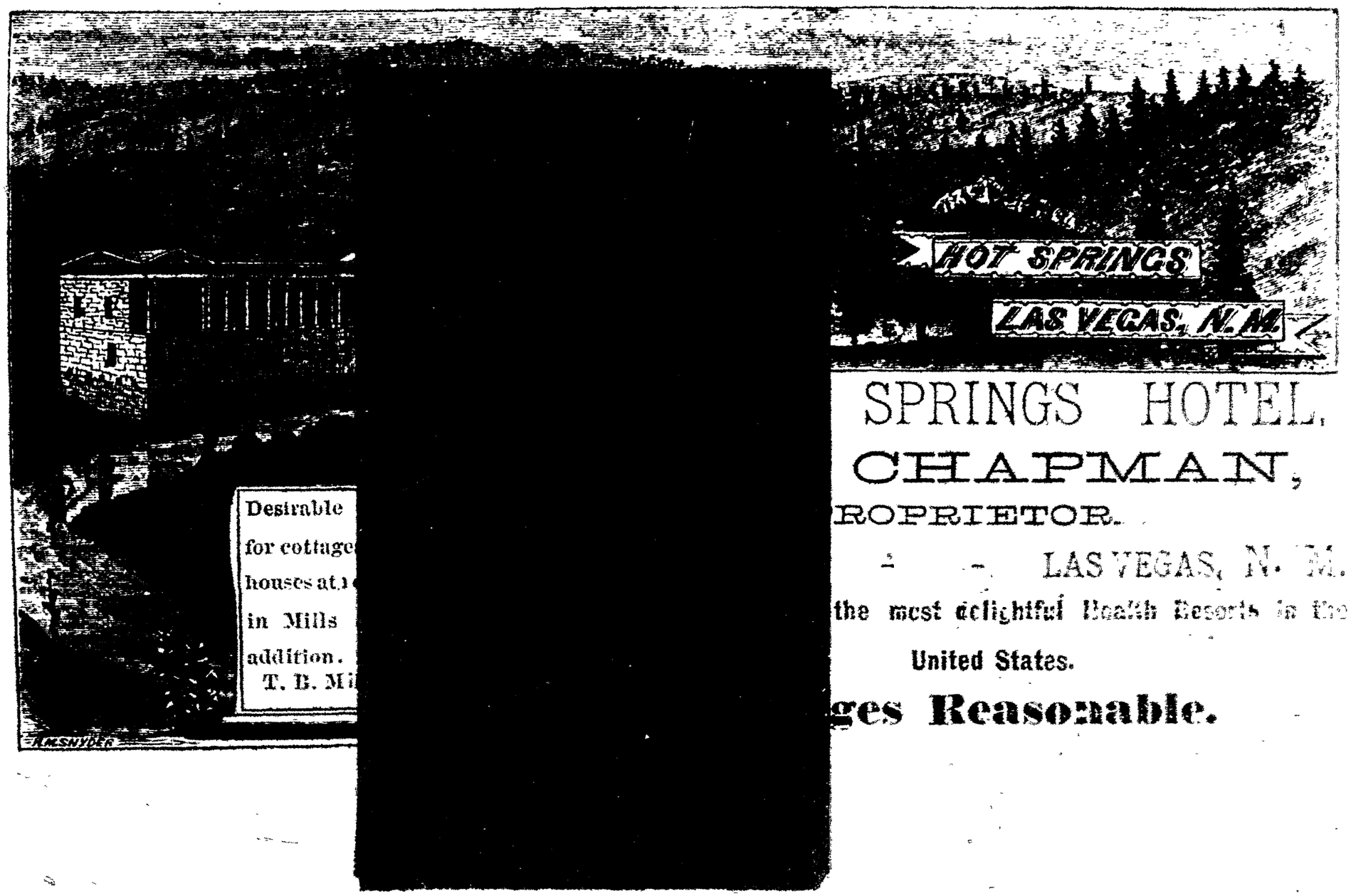

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CHARACTERISTICS, RESOURCES,

AND

MINING REGIONS OF NEW MEXICO.

121.20

New Mexico is about three hundred and fifty miles square, and contains ~~a little over twelve hundred and twenty-one~~ square miles. Its area is a trifle greater than that of the seven States of New York, Pennsylvania, New Jersey, Maryland, Delaware, Connecticut and Rhode Island. Its Northern boundary line extended Eastward would pass through the vicinity of Norfolk, Va., and its average Southern line strikes the Atlantic about twenty-five miles South of Savannah, Ga. The general face of the country is a series of elevated plateaus, traversed by ranges of Mountains, and marked by occasional isolated peaks, and channelled by rapid streams of water flowing through beautiful valleys and precipitous canons. The plateaus, valleys and hillsides of New Mexico are usually covered with indigenous grasses, the most valuable and widely distributed being the grama or mesquite, upon which every kind of live stock thrives and fattens. In the mountains and foot hills various mineral are found: gold, silver, copper, mica, iron and coal, both bituminous and anthracite, and in the development of its mineral resources New Mexico is likely soon to revive its ancient reputation as one of the richest regions in the world.

HOW TO GET TO NEW MEXICO.

Kansas City and Atchison are the starting points of the Atchison, Topeka & Santa Fe Railroad, which is the pioneer railroad to New Mexico. These two points may be reached from all parts of the East by the way of Chicago or St. Louis. The A., T & S. F. Roads takes a Southwesterly course from its start until it reaches the Arkansas River in Southern Kansas, then follows that river in a general Westerly course into the State of Colorado to the City of Pueblo. The New Mexican line diverges from the Colorado line at La Junta, eighty miles beyond, the Western boundary of Kansas cuts across the Southwestern part of Colorado to the town of Trinidad, a few miles beyond which, it climbs the Raton range, a spur of the Rockies; extending Eastward and enters New Mexico, whose Northern line passes through these Mountains.

MINING REGIONS OF NEW MEXICO.

Gold and silver are known to exists in over fifty different localities in the Territory. The first region which will attract the prospector and miner entering the Territory by the Atchison, Topeka & Santa Fe Road, is that of the Red River, where considerable gold washing has been done. The Moreno Mines, on Ute Creek, and others on the tributaries of the Red and Cimarron Rivers, are quite productive in gold. About Elizabethtown, in the mountains West of Cimarron, both silver and gold are found, and the Old Baldy Mountain is literally seamed with veins of silver. In the mountains of the Mora region, forty miles South of Cimarron, gold and silver are found, and, indeed, in the entire range of the Rocky Mountains, from the Sangre del Cristo, in Southern Colorado, South to the termination of the range proper below Las Vegas and Santa Fe, there is not a mile of the range that will not show mineral indications, and when the mountains have been prospected as those of Colorado, they will prove to be equally as rich.

In the Turkey Mountains, Northeast of Fort Union, silver and copper are found, as in the Apache Hill, also on the stage route North of Fort Union. In the foot hills about the Hot Springs, six miles Northwest of Las Vegas, silver indications are frequent, and near the Hermits Mountain several shafts have been sunk, showing true fissure veins, while in the bed of the Gallinas River a color of gold is found. At Tecolote, about twelve miles South of Las Vegas, a mining camp has lately sprung up, and rich developments of silver are made there. The newly discovered Cerrillos District on the Galisteo, twenty miles South of Santa Fe and about seventy miles Southwest of Las Vegas, and on the line of the A., T. & S. F., is making good progress, and will doubtless prove a big bonanza to miners. The carbonates found here are frequently of high grade, and with proper development this district promises to become one of the most famous in the country.

The Old Placer gold mines, twenty-seven miles South of Santa Fe, are run in the han California capitalists, and are to be worked on an extensive scale. And the New Placers miles farther South, will also soon be developed. It is only the lack of water that has reta the production of vast quantities of gold from these mines, and that lack will soon be remedie the construction of canals and pipes to bring water from the Rio Grande and the Pecos.

Rich developments have lately been found in the Ladrones Mountains West of Belen on Rio Grande, and ores are assaying $300 in silver to the ton, are reported from that region, wh lies about sixty miles South of Albuquerque, or about a hundred and eighty miles Southwes Las Vegas. Following the Rio Grande Southwest, we next reach the Socorro and Madal Mountains, where rich silver indications are found, and where the prospector is almost da discovering new leads.

In the Southwest part of the Territory are the rich mines of the Pinos Altos, the Bu Mountains, and the Mimbres, and the newly discovered Shakspeare mines, which are reported great and unexhaustible richness. New York capitalists now have them in hand, and will pu developments rapidly. The Massachusetts and New Mexico Mining Company, are also in t region with headquarters at Silver City, which is located between the Pinos Altos and Bu Mountains, some sixty miles West of the Rio Grande. We have thus followed in regular orde general Southwesterly course, from Colfax County, in Northeast New Mexico, to Grant Count in the Southwest corner of the Territory. We have not mentioned all, or even half of the localiti where minerals can be found in crossing the Territory on this line, and we have yet to menti the Jicarilla Mining District in the Mountain of the same name in Lincoln County, about a hu dred and twenty-five miles South of Las Vegas, where exceedingly rich ore of silver are found, a the Sierra Capitan, just North of Lincoln, in the same county. Then there are the Mogollo Mountains, rich in indications, on the Western border of the Territory, and vast unexplore regions, North and South, beyond the Rio Grande, that have never been prospected, but whic contain gold, silver and other minerals.

It may be said in brief, that in the best known mining regions of New Mexico, there is a abundance of room for new prospecting and new developments, while by far the greater part o the mineral wealth of the country yet await discovery. In the language of the United State Surveyor-General for the Territory, expressed in a letter some years ago to the General Land Office: "We believe New Mexico has more gold, silver and copper than Nevada or Colorado; and there are also vast quantities of iron, lead, coal and other minerals in the Territory. It is now the coming mineral region of the United States, and offers greater inducements for the miner and capitalist than any other Territory."

TABLE OF DISTANCES A. T. & S. F. R. R.

NAMES OF TOWNS.		Miles
Kansas City	to Willow Springs	676
"	Otero	681
"	Dorsey	699
"	Springer	709
"	Ocate	726
"	Wagon Mound	746
"	Tipton	766
"	Watrous	774
"	Las Vegas	802
"	Bernal	819
"	San Jose	828
"	Gallisteo	854
"	SANTA FE	863
"	ALBUQUERQUE	882
"	Belen	936
"	Socorro	974
"	Fort Craig	1002
"	Mesilla	1122
"	El Paso	1169
Springer	to Cimarron	21
"	Elizabeth	46
Watrous	to Fort Union	13
Las Vegas	to Fort Bascom	10
"	Fort Sumner	107
"	Fort Stanton	170
"	Lincoln	185
"	Taos	70
"	to Las Cruces	4
Mesilla	Hillsboro	50
"	Silver City	115
"	Shakspeare	165
"	San Simon	180
"	to Abiquiu	45
Santa Fe	Fort Wingate	215

UNITED STATES MINING LAWS

AND

REGULATIONS THEREUNDER.

MINING LAWS AND MINING RESOURCES.

TITLE XXXII, CHAPTER 6.

Mineral lands reserved.

4 July, 1866, c. 166, s.5, v.14, p.86.

SECTION 2318. In all cases lands valuable for minerals shall be reserved from sale, except as otherwise expressly directed by law.

Mineral lands open to purchase by citizens.

10 May, 1872, c. 152. s,1.v.17, p.91.

U. S. *vs.* Gear. 3 How., 120.

SEC. 2319. All valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

Length of mining claims upon veins or lodes.

10 May, 1872, c. 152, s. 2, v. 17, p. 91.

SEC. 2320. Mining claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, heretofore located, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of their location. A mining claim located after the tenth day of May, eighteen hundred and seventy-two, whether located by one or more persons, may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulation to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing on the tenth day of May, eighteen hundred and seventy-two, render such limitation necessary. The end lines of each claim shall be parallel to each other.

Proof of citizenship.

10 May, 1872, c. 152, s. 7, v. 17, p. 94.

SEC. 2321. Proof of citizenship, under this chapter, may consist, in the case of an individual, of his own affidavit thereof; in the case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his own knowledge or upon information and belief; and in the case of a corporation organized under the laws of the United States, or of any State or Territory thereof, by the filing of a certified copy of their charter or certificate of incorporation.

Locators' rights of possession and enjoyment.

10 May, 1873, c. 152, s. 3, v. 17f p. 91.

SEC. 2322. The locators of all mining locations heretofore made or which shall hereafter be made, on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim exists on the tenth day of May, eighteen hundred and seventy-two, so long as they comply with the laws of the United States, and with State, Territorial, and local regulations not in conflict with the laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes, and ledges throughout their entire depth, the top or apex of which lies inside of such surface-lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side-lines of such surface locations. But their right of possession to such outside parts of such veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as above described, through the end lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of such veins or ledges. And nothing in this section shall authorize the locator or possessor of a vein or lode which extends in its downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another.

Owners of tunnels, rights of

10 May, 1872. c. 152, s. 4, v. 17, p. 92.

SEC. 2323. Where a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes within three thousand feet from the face of such tunnel on the line thereof, not previously known to exist, discovered in such tunnel, to the same extent as if discovered from the surface; and locations on the line of such tunnel or veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid; but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of the tunnel

Regulations made by miners.

10 May, 1872, c. 152, s. 5, v. 17, p. 92.

SEC. 2324. The miners of each mining district may make regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated governing the location, manner of recording, amount of work necessary to hold possession of a mining-claim, subject to the following requirements: The location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining-claims hereafter made shall contain the name or names of the locators, the

names of the locators, the date of the location, and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. On each claim located after the tenth day of May, eighteen hundred and seventy-two, and until a patent has been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year. On all claims located prior to the the tenth day of May, eighteen hundred and seventy-two, ten dollars' worth of labor shall be performed or improvements made by the tenth day of June, eighteen hundred and seventy-four, and each year thereafter, for each one hundred feet in length along the vein until a patent has been issued therefore; but where such claims are held in common, such expenditure may be made upon any one claim; and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to re-location in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after failure and before such locations. Upon the failure of any one of several co-owners to contribute his proportion of the expenditures required hereby, the co-owners who have performed the labor or made the improvements may, at the expiration of the year give such delinquent co-owner personal notice in writing, or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and if at the expiration of ninety days after such notice in writing or publication such delinquent should fail or refuse to contribute his proportion of the expenditure required by this section, his interest in the claim shall become the property of his co-owners who have made the required expenditures.

Patents for mineral lands, how obtained.

10 May, 1872, c. 152, s. 6, v. 17, p. 92.

SEC. 2325, A patent for any land claimed and located for valuable deposits may be obtained in the following manner: Any person, association, or corporation authorized to locate a claim under this chapter, having claimed and located a piece of land for such purposes, who has, or have, complied with the terms of this chapter, may file in the proper land office an application for a patent, under oath, showing such compliance, together with a plat and field-notes of the claim or claims in common, made by or under the direction of the United States surveyor-general, showing accurately the boundaries of the claim or claims, which shall be distinctly marked by monuments on the ground, and shall post a copy of such plat, together with a notice of such application for a patent, in a conspicuous place on the land embraced in such plat previous to the filing of the application for a patent, and shall file an affidavit of at least two persons that such notice has been duly posted, and shall file a copy of the notice in such land-office, and shall thereupon be entitled to a patent for the land, in the manner following: The register of the land-office, upon the filing of such application, plat, field-notes, notices and affidavits, shall publish a notice that such application has been made, for the period of sixty days, in a newspaper to be by him designated as published nearest to such claim; and he shall also post such notice in his office for the same period. The claimant at the time of filing this application or at any time thereafter, within the sixty days of publication, shall file with the register a certificate of the United States surveyor-general that five hundred dollars' worth of labor has been expended or improvements made upon the claim by himself or grantors; that the plat is correct, with such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description, to be incorporated in the patent. At the expiration of the sixty days of publication, the claimant shall file his affidavit, showing that the plat and notice have been posted in a conspicuous place on the claim during such period of publication. If no adverse claim shall have been filed with the register and the receiver of the proper land-office at the expiration of the sixty days of publicaton, it shall be assumed that the applicant is entitled to a patent, upon the payment to the proper officer of five dollars per acre, and that no adverse claim exists; and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with the terms of this chapter

Adverse claim, proceedings on.

10 May, 1872, c. 152, s. 7, v. 17, p. 93.

SEC. 2326. Where an adverse claim is filed during the period of publication, it shall be upon oath of the person or persons making the same, and shall show the nature, boundaries, and extent of such adverse claim, and all proceedings, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversey shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction, to determine the question of the right of possession, and prosecute the same with reasonable diligence to final judgment; and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof may, without giving further notice, file a certified copy of the judgment-roll with the register of the land office, together with the certificate of the surveyor-general that the requisite amount of labor has been expended or improvements made thereon, and the description required in other cases, and shall pay to the receiver five dollars per acre for his claim, together with the proper fees, whereupon the whole proceedings and the judgment-roll shall be certified by the register to the Commissioner of the General Land-Office, and a patent shall issue thereon for the claim, or such portion thereof as the applicant shall appear, from the decision of the court, to rightly

possess. If it appears from the decision of the court that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim, with the proper fees, and file the certificate and description by the surveyor-general, whereupon the register shall certify the proceedings and judgment-roll to the Commissioner of the General Land-Office, as in the preceding case, and patents shall issue to the several parties according to their respective rights. Nothing herein contained shall be construed to prevent the alienation of the title conveyed by a patent for a mining-claim to any person whatever.

Description of vein-claims on de-surveyed and unsurveyed lands.

10 May, 1872, c. 152, s. 8, v. 17, p. 94.

Pending applications; existing rights.

SEC. 2327. The description of vein or lode claims, upon surveyed lands, shall designate the location of the claim with reference to the lines of the public surveys, but need not conform therewith; but where a patent shall be issued for claims upon unsurveyed lands, the surveyor-general, in extending the surveys, shall adjust the same to the boundaries of such patented claim, according to the plat or description thereof, but so as in no case to interfere with or change the location of any such patented claim.

10 May, 1872, c. 152, s. 9, v. 17, p. 94.

Conformity of placer claims to surveys, limit of.

SEC. 2328. Applications for patents for mining-claims under former laws now pending may be prosecuted to a final decision in the General Land-Office; but in such cases, where adverse rights are not affected thereby, patents may issue in pursuance of the provisions or this chapter; and all patents for mining-claims upon veins or lodes heretofore issued shall convey all the rights and privileges conferred by this chapter where no adverse rights existed on the tenth day of May, eighteen hundred and seventy-two.

9 July, 1870, c. 235, s. 12, v. 16, p. 217.

Subdivisions of ten acre tracts; maximum of placer locations.

SEC. 2329. Claims usually called "placers," including all forms of deposit, excepting veins of quartz or other rock in place, shall be subject to entry and patent, under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims; but where the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivision of the public lands.

9 July, 1870, c. 235, s. 12, v. 16, p. 217.

Conformity of placer-claims to surveys; limitation of claims.

SEC. 2330. Legal subdivisions of forty acres may be subdivided into ten-acre tracts; and two or more persons, or associations of persons, having contiguous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof; but no location of a placer-claim, made after the ninth day of July, eighteen hundred and seventy, shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any bona fide pre-emption or homestead claim upon agricultural lands, or authorize the sale of the improvements of any bona fide settler to any purchaser.

10 May 1872, c. 152, s 10, v. 17, p. 94.

What evidence of possession, &c., to establish a right to a patent.

SEC. 2331. Where placer-claims are upon surveyed lands and conform to legal subdivisions, no further survey or plat shall be required, and all placer mining claims located after the tenth day of May, eighteen hundred and seventy-two, shall conform as near as practicable with the United States system of public land surveys, and the rectangular subdivisions of such surveys and no such location shall include more than twenty acres for each individual claimant; but where placer-claims cannot be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands; and where by the segregation of mineral lands in any legal subdivision a quantity of agricultural land less than forty acres remains, such fractional portion of agricultural land may be entered, by any party qualified by law, for homestead or pre-emption purposes.

9 July, 1870, c. 352, s. 13, v. 16, p. 217.

Proceedings for patent for placer-claim, &c.

SEC. 2332. Where such person or association, they and their grantors, have held and worked their claims for a period equal to the time prescribed by the statute of limitations for mining-claims of the State or Territory where the same may be situated, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under this chapter, in the absence of any adverse claim; but nothing in this chapter shall be deemed to impair any lien which may have attached in any way whatever to any mining-claim or property thereto attached prior to the issuance of a patent.

10 May, 1872, c. 152, s. 11, v. 17, p. 94.

Surveyor-General to appoint surveyors of mining-claims, &c.

SEC. 2333. Where the same person, association, or corporation is in possession of of a placer-claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer-claim, with the statement that it includes such vein or lode, and in such case a patent shall issue for the placer-claim, subject to the provisions of this chapter, including such vein or lode, upon the payment of five dollars per acre for such vein or lode claim, and twenty-five feet of surface on each side thereof. The remainder of the placer-claim, or any placer-claim not embracing any vein or lode claim, shall be paid for at the rate of two dollars and fifty cents per acre, together with all costs of proceedings; and where a vein or lode, such as is described in section twenty-three hundred and twenty, is known to exist within the boundaries of a placer-claim, an application for a patent for such placer-claim which does not include an application for the vein or lode-claim shall be construed as a conclusive declaration that the claimant of the placer-claim has no right or possession of the vein or lode claim; but where the existence of a vein or lode in a placer-claim is not known, a patent for the placer-claim shall convey all valuable mineral and other deposits within the boundaries thereof.

10 May, 1872, c. 152, s. 12, v. 17, p. 95.

Verification of affidavits, &c.

SEC. 2334. The Surveyor-General of the United States may appoint in each land-district containing mineral lands as many competent surveyors as shall apply for appointment to survey mining-claims. The expenses of the survey of veins or lode claims, and the survey and subdivision of placer-claims into

10 May, 1872, c. 152, s. 13, v. 17, p. 95.

smaller quantities than one hundred and sixty acres, together with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates and they shall also be at liberty to employ any United States deputy surveyor to make the survey. The Commissioner of the General Land-Office shall also have power to establish the maximum charges for surveys and publication of notices under this chapter; and, in case of excessive charges for publication, he may designate any newspaper published in a land-district where mines are situated for the publication of mining notices in such district, and fix the rates to be charged by such paper; and, to the end that the commissioner may be fully informed on the subject, each applicant shall file with the register a sworn statement of all charges and fees paid by such applicant for publication and surveys, together with all fees and money paid the register and the receiver of the land-office, which statement shall be transmitted, with the other papers in the case, to the Commissioner of the General Land-Office.

Where veins intersect, &c.

10 May, 1872, c. 152, s. 14, v. 17, p. 96.

Patents for non-mineral lands, &c.

10 May, 1872, c. 152, s. 15, v. 17, p. 96.

What conditions of sale may be made by local legislature.

SEC. 2335. All affidavits required to be made under this chapter may be verified before any officer authorized to administer oaths within the land district where the claims may be situated, and all testimony and proofs may be taken before any such officer, and, when duly certified by the officer taking the same, shall have the same force and effect as if taken before the register and receiver of the land-office. In cases of contest as to the mineral or agricultural character of the land, the testimony and proofs may be taken as herein provided on personal notice of at least ten days to the opposing party; or if such party cannot be found, then by publication of at least once a week for thirty days in a newspaper, to be designated by the register of the land office as published nearest to the location of such land; and the register shall require proof that such notice has been given.

26 July, 1866, c. 262, s. 5, v. 14, p. 252.

Vested rights to use of water for mining, &c.; right of way for canals.

26 July, 1866, c. 262, s. 9, v. 14, p. 253.

SEC. 2336. Where two or more veins intersect or cross each other, priority of title shall govern, and such prior location shall be entitled to all ore or mineral contained within the space of intersection; but the subsequent location shall have the right of way through the space of intersection for the purpose of the convenient working of the mine. And where two or more veins unite, the oldest or prior location shall take the vein below the point of union, including all the space of intersection.

Patents, pre-emptions, and homesteads subject to, vested and accrued water-rights.

9 July, 1870, c. 235, s. 17, v. 16, p. 218.

SEC. 2337. Where non-mineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such non-adjacent surface ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable to veins or lodes; but no location hereafter made of such non-adjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by this chapter for the superficies of the lode. The owner of a quartz-mill or reduction-works, not owning a mine in connection therewith, may also receive a patent for his mill-site, as provided in this section.

Mineral lands in which no valuable mines are discovered, open to homesteads.

26 July, 1866, c. 262, s. 10, v. 14, p. 253.

SEC. 2338. As a condition of sale, in the absence of necessary legislation by Congress, the local legislature of any State or Territory may provide rules for working mines, involving easemen s, drainage, and other necessaay means to their complete development; and those conditions shall be fully expressed in the patent.

Mineral lands, how set apart as agricultural land.

26 July, 1866, c. 262, s. 11, v. 14, p. 253.

SEC. 2339. Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decision of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

Additional land-districts and officers, power of the President to provide.

26 July, 1866, c. 262, s. 7, v. 14, p. 252.

SEC. 2340. All patents granted, or pre-emption or homesteads allowed, shall be subject to any vested and accrued water-rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under or recognized by the preceding section.

Provisions of this chapter not to affect certain rights.

10 May, 1872, c. 152, s. 16, v. 17, p. 96.

9 July, 1870, c. 235, s. 17, v. 16, p. 218.

SEC. 2341. Wherever, upon the lands heretofore designated as mineral lands, which have been excluded from survey and sale, there have been homesteads made by citizens of the United States, or persons who have declared their intention to become citizens, which homesteads have been made, improved, and used for agricultural purposes, and upon which there have been no valuable mines of gold, silver, cinnabar, or copper discovered, and which are properly agricultural lands, the settlers or owners of such homesteads shall have a right of pre-emption thereto, and shall be entitled to purchase the same at the price of one dollar and twenty-five cents per acre, and in quantity not to exceed one hundred and sixty acres; or they may avail themselves of the provisions of chapter five of this Title, relating to "HOMESTEADS."

Mineral lands in certain States excepted.

SEC. 2342. Upon the survey of the lands described in the preceding section, the Secretary of the Interior may designate and set apart such portions of the same as are clearly agricultural lands, which lands shall thereafter be subject to pre-emption and sale as other public lands, and be subject to all the laws and regulations applicable to the same.

SEC. 2343. The President is authorized to establish additional land-districts, and to appoint the necessary officers under existing laws, wherever he may deem the same necessary for the public convenience in executing the provisions of this chapter. 18 Feb., 1873, c. 159, v. 17, p. 465.

Grants of lands to States or corporations not to include mineral lands.

SEC. 2344. Nothing contained in this chapter shall be construed to impair, in any way, rights or interests in mining property acquired under existing laws; nor to affect the provisions of the act entitled "An act granting to A. Sutro the right of way and other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada," approved July twenty-five, eighteen hundred and sixty-six. 30 Jan., 1865, Res. No. 10., v. 13, p. 567.

SEC. 2345. The provisions of the preceding sections of this chapter shall not apply to the mineral lands situated in the States of Michigan, Wisconsin and Minnesota, which are declared free and open to exploration and purchase, according to legal subdivisions, in like manner as before the tenth day of May, eighteen hundred and seventy-two. And any bona fide entries of such lands within the States named since the tenth of May, eighteen hundred and seventy-two, may be patented without reference to any of the foregoing provisions of this chapter. Such lands shall be offered for public sale in the same manner, at the same minimum price, and under the same rights of pre-emption as other public lands.

What Revised Statutes embrace.

Repeal of acts embraced in revision.

Accrued rights reserved.

Prosecutions and punishments.

Acts of limitation.

Arrangement and classification of sections.

Acts passed since Dec. 1, 1873, not affected.

SEC. 2346. No act passed at the first session of the thirty-eighth Congress, granting lands to States or corporations to aid in the construction of roads, or for other purposes, or to extend the time of grants made prior to the thirtieth day of January, eighteen hundred and sixty-five, shall be so construed as to embrace mineral lands, which in all cases are reserved exclusively to the United States, unless otherwise specially provided in the act or acts making the grant.

REPEAL PROVISIONS.

TITLE LXXIV.

SEC. 5595. The foregoing seventy-three titles embrace the statutes of the United States general and permanent in their nature, in force on the 1st day of December, one thousand eight hundred and seventy-three, as revised and consolidated by commissioners appointed under an act of Congress, and the same shall be designated and cited as The Revised Statutes of the United States.

SEC. 5596. All acts of Congress passed prior to said first day of December, one thousand eight hundred and seventy-three, any portion of which is embraced in any section of said revision, are hereby repealed, and the section applicable thereto shall be in force in lieu thereof; all parts of such acts not contained in such revision, having been repealed or superseded by subsequent acts, or not being general or permanent in their nature: *Provided*, That the incorporation into said revision of any general and permanent provision, taken from an act making appropriations, or from an act containing other provisions of a private, local, or temporary character, shall not repeal, or in any way affect any appropriation, or any provision of a private, local or temporary character, contained in any of said acts, but the same shall remain in force; and all acts of Congress passed prior to said last-named day no part of which are embraced in said revision, shall not be affected or changed by its enactments.

SEC. 5597. The repeal of the several acts embraced in said revision, shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before the said repeal, but all rights and liabilities under said acts shall continue, and may be enforced in the same manner, as if said repeal had not been made; nor shall said repeal, in any manner affect the right to any office, or change the term or tenure thereof.

SEC. 5598. All offenses committed, and all penalties or forfeitures incurred under any statute embraced in said revision prior to said repeal, may be prosecuted and punished in the same manner and with the same effect, as if said repeal had not been made.

SEC. 5599. All acts of limitation, whether applicable to civil causes and proceedings, or to the prosecution of offenses, or for the recovery of penalties or forfeitures, embraced in said revision and covered by said repeal, shall not be affected thereby, but all suits, proceedings or prosecutions, whether civil or criminal, for causes arising, or acts done or committed prior to said repeal, may be commenced and prosecuted within the same time as if said repeal had not been made.

SEC. 5600. The arrangement and classification of the several sections of the revision have been made for the purpose of a more convenient and orderly arrangement of the same, and therefore no inference or presumption of a legislative construction is to be drawn by reason of the Title, under which any particular section is placed.

SEC. 5601. The enactment of the said revision is not to affect or repeal any act of Congress passed since the 1st day of December, one thousand eight hundred and seventy-three and all acts passed since that date are to have full effect as if passed after the enactment of this revision and so far as such acts vary from, or conflict with any provision contained in said revision, they are to

have effect as subsequent statutes, and as repealing any portion of the revision inconsistent therewith.

Approved June 22, 1874.

The following is an act of Congress approved June 6, 1874:

AN ACT to amend the act entitled "An act to promote the development of the mining resources of the United States," passed May tenth, eighteen hundred and seventy-two.

Be it enacted by the the Senate and House of Representatives of the United States of America in Congress assembled: That the provisions of the fifth section of the act entitled "An act to promote the development of the mining resources of the United States," passed May tenth, eighteen hundred and seventy-two, which requires expenditures of labor and improvements on claims located prior to the passage of said act are hereby so amended that the time for the first annual expenditure on claims located prior to the passage of said act shall be extended to the first day of January, eighteen hundred and seventy-five.

The following is an act of Congress approved February 11, 1875:

AN ACT to amend section two thousand three hundred and twenty-four of the revised statutes, relating to the development of the mining resources of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That section two thousand three hundred and twenty-four of the revised statutes be, and the same is hereby, amended so that where a person or company has or may run a tunnel for the purpose of developing a lode or lodes, owned by said person or company, the money so expended in said tunnel shall be taken and considered as expended on said lode or lodes, whether located prior to or since the passage of said act, and such person or company shall not be required to perform work on the surface of said lode or lodes in order to hold the same as required by said act.

The following is an act of Congress approved May 5, 1876:

AN ACT to exclude the States of Missouri and Kansas from the provisions of the act of Congress entitled "An act to promote the development of the mining resources of the United States," approved May tenth, eighteen hundred and seventy-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That within the States of Missouri and Kansas deposits of coal, iron, lead, or other mineral be, and they are hereby, excluded from the operation of the act entitled "An act to promote the development of the mining resources of the United States," approved May tenth, eighteen hundred and seventy-two, and all lands in said States shall be subject to disposal as agricultural lands.

AN ACT authorizing the citizens of Colorado, Nevada, and the Territories to fell and remove timber on the public domain for mining and domestic purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all citizens of the United States and other persons, *bona fide* residents of the State of Colorado or Nevada, or either of the Territories of New Mexico, Arizona, Utah, Wyoming, Dakota Idaho or Montana, and all other mineral districts of the United States, shall be, and are hereby, authorized and permitted to fell and remove, for building, agricultural, mining or other domestic purposes, any timber or other trees growing or being on the public lands, said lands being mineral, and not subject to entry under existing laws of the United States, except for mineral entry, in either of said States, Territories, or districts of which such citizens or persons may be at the time *bona fide* residents, subject to such rules and regulations as the Secretary of the Interior may prescribe for the protection of the timber and of the undergrowth growing upon such lands, and for other purposes: *Provided,* The provisions of this act shall not extend to railroad corporations.

SEC. 2. That it shall be the duty of the register and the receiver of any local land office in whose district any mineral land may be situated to ascertain from time to time whether any timber is being cut or used upon any such lands, except for the purposes authorized by this act, within their respective land districts; and, if so, they shall immediately notify the Commissioner of the General Land Office of that fact; and all necessary expenses incurred in making such proper examinations shall be paid and allowed such register and receiver in making up their next quarterly accounts.

SEC. 3. Any person or persons who shall violate the provisions of this act, or any rules and regulations in pursuance thereof made by the Secretary of the Interior, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not exceeding five hundred dollars, and to which may be added imprisonment for any term not exceeding six months.

Approved June 3, 1878.

MINERAL LANDS OPEN TO EXPLORATION, OCCUPATION, AND PURCHASE.

1. It will be perceived that by the foregoing provisions of law the mineral lands in the public domain, surveyed or unsurveyed, are open to exploration, occupation, and purchase, by all citizens of the United States and all those who have declared their intention to become such.

STATUS OF LODE-CLAIMS LOCATED PRIOR TO MAY 10, 1872.

2. By an examination of the several sections of the Revised Statutes it will be seen that the *status* of lode-claims located *previous* to the 10th May, 1872, is not changed with regard to their *extent along the lode or width of surface.*

3. Mining rights acquired under such previous locations are, however, enlarged by said Revised Statutes in the following respect, viz: The locators of all such previously taken veins or lodes, their heirs and assigns, so long as they comply with the laws of Congress and with State, Territorial, or local regulations not in conflict therewith, governing mining-claims, are invested with the exclusive possessory right of all the surface included within the lines of their locations, and of all veins, lodes, or ledges throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side-lines of such locations at the surface, it being expressly provided, however, that the right of possession to such outside parts of said veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as aforesaid, through the end lines of their locations so continued in their own direction that such planes will intersect such exterior parts of such veins, lodes, or ledges; no right being granted, however, to the claimant of such outside portion of a vein or ledge to enter upon the surface location of another claimant.

4. It is to be distinctly understood, however, that the law limits the possessory right to veins, lodes, or ledges, *other* than the one named in the original location, to such as were not *adversely claimed on May* 10, 1872, and that where such other vein or ledge was so adversely claimed at that date, the right of the party so adversely claiming is in no way impaired by the provisions of the Revised Statutes.

5. In order to hold the possessory title to a mining-claim located prior to May 10, 1872, and for which a patent has not been issued, the law requires that *ten dollars* shall be expended annually in labor or improvements on each claim of *one hundred feet* on the course of the vein or lode until a patent shall have been issued therefor; but where a number of such claims are held in common upon the same vein or lode the aggregate expenditure that would be necessary to hold all the claims, at the rate of ten dollars per hundred feet, may be made upon any one claim; a failure to comply with this requirement in any one year subjecting the claim upon which such failure occurred to relocation by other parties, the same as if no previous location thereof had ever been made, unless the claimants under the original location shall have resumed work thereon after such failure and before such relocation. The first annual expenditure upon claims of this class should have been performed subsequent to May 10, 1872, and prior to January 1, 1875. From and after January 1, 1875, the required amount must be expended *annually* until patent issues. By decision of the honorable Secretary of the Interior, dated March 4, 1879, such annual expenditures are not required subsequent to entry, the date of issuing the patent certificate being the date contemplated by statute.

6. Upon the failure of any one of several co-owners of a vein, lode, or ledge, which has not been entered, to contribute his proportion of the expenditures necessary to hold the claim or claims so held in ownership in common: the co-owners who have performed the labor, or made the improvements as required by said Revised Statutes, may, at the expiration of the year, give such delinquent co-owner personal notice in writing, or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days; and if upon the expiration of ninety days after such notice in writing, or upon the expiration of one hundred and eighty days after the first newspaper publication of notice, the delinquent co-owner shall have failed to contribute his proportion to meet such expenditure or improvements, his interest in the claim by law passes to his co-owners who have made the expenditures or improvements as aforesaid.

PATENTS FOR VEINS OR LODES HERETOFORE ISSUED.

7. Rights under patents for veins or lodes heretofore granted under previous legislation of Congress are enlarged by the Revised Statutes so as to invest the patentee, his heirs or assigns, with title to all veins, lodes or ledges, throughout their entire depth, the top or apex of which lies within the end and side boundary lines of his claim on the surface, as patented, extended downward vertically, although such veins, lodes or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side-lines of the claim at the surface. The right of possession to such outside parts of such veins or ledges to be confined to such portions thereof as lie between vertical planes drawn downward through the end-lines of the claim at the surface, so continued in their own direction that such planes will intersect such exterior parts of such veins or ledges, it being expressly provided, however, that all veins, lodes, or ledges, the top or apex of which lies inside such surface locations, *other* than the one named in the patent which were *adversely claimed on the 10th of May*, 1872, are excluded from such conveyance by patent.

8. Applications for patents for mining-claims pending at the date of the act of May 10, 1872, may be prosecuted to final decision in the General Land-Office, and where no adverse rights are affected thereby, patents will be issued, in pursuance of the provisions of the Revised Statutes

MANNER OF LOCATING CLAIMS ON VEINS OR LODES AFTER MAY 10, 1872.

9. From and after the 10th May, 1872, any person who is a citizen of the United States, or who has declared his intention to become a citizen, may locate, record, and hold a mining-claim of *fifteen hundred linear feet* along the course of any mineral vein or lode subject to location; or an association of persons, severally qualified as above, may make joint location of such claim of *fifteen hundred feet*, but in no event can a location of a vein or lode made subsequent to May 10, 1872, exceed fifteen hundred feet along the course thereof, whatever may be the number of persons composing the association.

10. With regard to the extent of surface-ground adjoining a vein or lode, and claimed for the convenient working thereof, the Revised Statutes provide that the lateral extent of locations of veins or lodes made after May 10, 1872, shall in no case *exceed three hundred feet on each side of the middle of the vein at the surface*, and that no such surface rights shall be limiting by any mining regulations to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing on the 10th May, 1872, may render such limitation necessary, the end-lines of such claims to be in all cases parallel to each other. Said lateral measurements cannot extend beyond three hundred feet on *either* side of the middle of the vein at the surface, or such distance as is allowed by local laws. For example: 400 feet cannot be taken on one side, and 200 feet on the other. If, however, 300 feet on each side are allowed, and by reason of prior claims but 100 feet can be taken on one side, the locator will not be restricted to less than 300 feet on the other side; and when the locator does not determine by exploration *where* the middle of the vein at the surface is, his discovery shaft must be assumed to mark such point.

11. By the foregoing it will be perceived that no lode-claim located after the 10th May, 1872, can exceed a parallelogram fifteen hundred feet in length by six hundred feet in width, but whether surface-ground of that width can be taken, depends upon the local regulations or State or Territorial laws in force in the several mining districts; and that no such local regulations or State or Territorial laws shall limit a vein or lode claim to less than fifteen hundred feet along the course thereof, whether the location is made by one or more persons, nor can surface-rights be limited to less than fifty feet in width, unless adverse claims existing on the 10th day of May, 1872, render such lateral limitation necessary.

12. It is provided by the Revised Statutes that the miners of each district may make rules and regulations not in conflict with the laws of the United States, or of the State or Territory in which such districts are respectively situated, governing the location, manner of recording, and amount of work necessary to hold possession of a claim. They likewise require that the location shall be so distinctly marked on the ground that its boundaries may be readily traced. This is a very important matter, and locators cannot exercise too much care in defining their locations at the outset, inasmuch as the law requires that all records of mining locations made subsequent to May 10, 1872, shall contain the name or names of the locators, the date of the location, and such a *description of the claim or claims* located, by reference to some natural object or permanent monument, as will identify the claim.

13. The statutes provide that no lode-claim shall be recorded until after the discovery of a vein or lode within the limits of the ground claimed; the object of which provision is evidently to prevent the encumbering of the district mining records with useless locations before sufficient work has been done thereon to determine whether a vein or lode has really been discovered or not.

14. The claimant should therefore, prior to recording his claim, unless the vein can be traced upon the surface, sink a shaft, or run a tunnel or drift, to a sufficient depth therein to discover and develop a mineral-bearing vein, lode, or crevice; should determine, if possible, the general course of such vein in either direction from the point of discovery, by which direction he will be governed in marking the boundaries of his claim on the surface, and should give the course and distance as nearly as practicable from the discovery-shaft on the claim to some permanent, well-known points or objects, such, for instance, as stone monuments, blazed trees, the confluence of streams, point of intersection of well-known gulches, ravines or roads, prominent buttes, hills, &c., which may be in the immediate vicinity, and which will serve to perpetuate and fix the *locus* of the claim and render it susceptible of identification from the description thereof given in the record of locations in the district.

15. In addition to the foregoing data, the claimant should state the name of adjoining claims, or, if none adjoin, the relative positions of the nearest claims; should drive a post or erect a monument of stones at each corner of his surface-ground, and at the point of discovery or discovery-shaft should fix a post, stake, or board; upon which should be designated the name of the lode, the name or names of the locators, the number of feet claimed, and in which direction from the point of discovery; it being essential that the location notice filed for record, in addition to the foregoing description, should state whether the entire claim of fifteen hundred feet is taken on one side of the point of discovery, or whether it is partly upon one and partly upon the other side thereof, and in the latter case, how many feet are claimed upon each side of such discovery-point.

16. Within a reasonable time, say twenty days after the location shall have been marked on the ground, or such time as is allowed by the local laws, notice thereof, accurately describing the claim in manner aforesaid, should be filed for record with the proper recorder of the district, who will, thereupon issue the usual certificate of location.

17. In order to hold the possessory right to a location made since May 10, 1872, not less than one hundred dollars' worth of labor must be performed, or improvements made thereon, within one year from the date of such location, and annually thereafter; in default of which the claim will be subject to relocation by any other party having the necessary qualifications, unless the original locator, his heirs, assigns, or legal representatives, have resumed work thereon after such failure and before such relocation.

18. The expenditures required upon mining-claims may be made from the surface or in running a tunnel for the development of such claims, the act of February 11, 1875, providing that

where a person or company has, or may, run a tunnel for the purpose of developing a lode or lodes owned by said person or company, the money so expended in said tunnel shall be taken and considered expended on said lode or lodes, and such person or company shall not be required to perform work on the surface of said lode or lodes in order to hold the same.

19. The importance of attending to these details in the matter of location, labor, and expenditures will be more readily perceived when it is understood that a failure to give the subject proper attention may invalidate the claim.

TUNNEL-RIGHTS.

20. Section 2323 provides that where a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes within three thousand feet from the face of such tunnel on the line thereof, not previously known to exist, discovered in such tunnel, to the same extent as if discovered from the surface; other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid, but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins or lodes on the line of said tunnel.

21. The effect of this is simply to give the proprietors of a mining tunnel run in good faith the possessory right to fifteen hundred feet of any blind-lodes cut, discovered, or intersected by such tunnel, which were not previously known to exist, within three thousand feet from the face or point of commencement of such tunnel, and to prohibit other parties, after the commencement of the tunnel, from prospecting for and making locations of lodes on the *line thereof* and within said distance of three thousand feet, unless such lodes appear upon the surface or were previously known to exist.

22. The term "face," as used in said section, is construed and held to mean the first working-face formed in the tunnel, and to signify the point at which the tunnel actually enters cover, it being from this point that the three thousand feet are to be counted, upon which prospecting is prohibited as aforesaid.

23. To avail themselves of the benefits of this provision of law, the proprietors of a mining tunnel will be required, at the time they enter cover as aforesaid, to give proper notice of their tunnel location, by erecting a substantial post, board or monument at the face or point of commencement thereof, upon which should be posted a good and sufficient notice, giving the names of the parties or company claiming the tunnel right; the actual or proposed course or direction of and locations on the line of such tunnel or veins or lodes not appearing on the surface, made by the tunnel; the height and width thereof, and the course and distance from such face or point of commencement to some permanent well-known objects in the vicinity by which to fix and determine the *locus* in manner heretofore set forth applicable to locations of veins or lodes, and at the time of posting such notice they shall, in order that miners or prospectors may be enabled to determine whether or not they are within the lines of the tunnel, establish the boundary lines thereof by stakes or monuments placed along such lines at proper intervals, to the terminus of the three thousand feet from the face or point of commencement of the tunnel, and the lines so marked will define and govern as to the specific boundaries within which prospecting for lodes not previously known to exist is prohibited while work on the tunnel is being prosecuted with reasonable diligence

24. At the time of posting notice and marking out the lines of the tunnel as aforesaid, a full and correct copy of such notice of location defining the tunnel claim must be filed for record with the mining-recorder of the district, to which notice must be attached the sworn statement or declaration of the owners, claimants, or projectors of such tunnel, setting forth the facts in the case; stating the amount expended by themselves and their predecessors in interest in prosecuting work thereon; the extent of the work performed, and that it is *bona fide* their intention to prosecute work on the tunnel so located and described with reasonable diligence for the development of a vein or lode, or for the discovery of mines, or both, as the case may be.

This notice of location must be duly recorded, and, with the said sworn statement attached, kept on the recorder's files for future reference.

25. By a compliance with the foregoing much needless difficulty will be avoided, and the way for the adjustment of legal rights acquired in virtue of said section 2323 will be made much more easy and certain.

26. This office will take particular care that no improper advantage is taken of this provision of law by parties making or professing to make tunnel locations, ostensibly for the purposes named in the statute, but really for the purpose of monopolizing the lands lying in front of their tunnels to the detriment of the mining interest and to the exclusion of *bona fide* prospectors or miners, but will hold such tunnel claimants to a strict compliance with the terms of the statutes; and a *reasonable diligence* on their part in prosecuting the work is one of the essential conditions of their implied contract. Negligence or want of due diligence will be construed as working a forfeiture of their right to all undiscovered veins on the line of such tunnel.

MANNER OF PROCEEDING TO OBTAIN GOVERNMENT TITLE TO VEIN OR LODE CLAIMS.

27. By section 2325 authority is given for granting titles for mines by patents from the government to any person, association, or corporation having the necessary qualifications as to citizenship and holding the right of possession to a claim in compliance with law.

28. The claimant is required in the first place to have a correct survey of his claim made under authority of the surveyor-general of the State or Territory in which the claim lies; such survey to show with accuracy the exterior surface boundaries of the claim, which boundaries are required to be distinctly marked by monuments on the ground. Four plats and one copy of the original field-notes, in each case, will be prepared by the surveyor-general; one plat and the

original field notes to be retained in the office of the surveyor-general, one copy of the plat to be given the claimant for posting upon the claim, one plat and a copy of the field-notes to be given the claimant for filing with the proper register, to be finally transmitted by that officer, with the other papers in the case, to this office, and one plat to be sent by the surveyor-general to the register of the proper land-district to be retained on his files for future reference.

29. The claimant is then required to post a copy of the plat of such survey in a conspicuous place upon the claim, together with notice of his intention to apply for a patent therefor, which notice will give the date of posting, the name of the claimant, the name of the claim, mine, or lode; the mining district and county; whether the location is of record, and, if so, where the record may be found; the number of feet claimed along the vein and the presumed direction thereof; the number of feet claimed on the lode in each direction from the point of discovery, or other well-defined place on the claim; the name or names of adjoining claimants on the same or other lodes; or, if none adjoin, the names of the nearest claims, &c.

30. After posting the said plat and notice upon the premises, the claimant will file with the proper register and receiver a copy of such plat, and the field-notes of survey of the claim, accompanied by the affidavit of at least two credible witnesses that such plat and notice are posted conspicuously upon the claim, giving the date and place of such posting; a copy of the *notice* so posted to be attached to, and form a part of, said affidavit.

31. Attached to the field notes so filed must be the sworn statement of the claimant that he has the possessory right to the premises therein described, in virtue of a compliance by himself (and by his grantors, if he claims by purchase) with the mining rules, regulations, and customs of the mining district, State, or Territory in which the claim lies, and with the mining laws of Congress; such sworn statement to narrate briefly, but as clearly as possible, the facts constituting such compliance, the origin of his possession, and the basis of his claim to a patent.

32. This affidavit should be supported by appropriate evidence from the mining recorder's office as to his possessory right, as follows, viz: Where he claims to be a locator, a full, true and correct copy of such location should be furnished, as the same appears upon the mining records; such copy to be attested by the seal of the recorder, or if he has no seal, then he should make oath to the same being correct, as shown by his records; where the applicant claims as a locator in company with others, who have since conveyed their interests in the lode to him, a copy of the original record of location should be filed, together with an abstract of title from the proper recorder, under seal or oath as aforesaid, tracing the co-locator's possessory rights in the claim to such applicant for patent; where the applicant claims only as a purchaser for valuable consideration, a copy of the location record must be filed, under seal or upon oath as aforesaid, with an abstract of title certified as above by the proper recorder, tracing the right of possession by a continuous chain of conveyances from the original locators to the applicant.

33. In the event of the mining records in any case having been destroyed by fire or otherwise lost, affidavit of the fact should be made, and secondary evidence of possessory title will be received, which may consist of the affidavit of the claimant, supported by those of any other parties cognizant of the facts relative to his location, occupancy, possession, improvements, &c.; and in such case of lost records, any deeds, certificates of location or purchase, or other evidence which may be in the claimant's possession, and tend to establish his claim, should be filed.

34. Upon the receipt of these papers the register will, at the expense of the claimant, (who must furnish the agreement of the publisher to hold applicant for patent alone responsible for charges of publication,) publish a notice of such application for the period of sixty days, in a newspaper published nearest to the claim, and will post a copy of such notice in his office for the same period. In all cases sixty days must intervene between the first and the last insertion of the notice in such newspaper. When the notice is published in a *weekly* newspaper ten consecutive insertions are necessary; when in a *daily* newspaper the notice must appear in each issue for the required period.

35. The notices so published and posted must be as full and complete as possible, and embrace all the *data* given in the notice posted upon the claim.

36. Too much care cannot be exercised in the preparation of these notices, inasmuch as upon their accuracy and completeness will depend, in a great measure, the regularity and validity of the whole proceeding.

37. The claimant, either at the time of filing these papers with the register, or at any time during the sixty days' publication, is required to file a certificate of the surveyor-general that not less than five hundred dollars' worth of labor has been expended or improvements made upon the claim by the applicant or his grantors; that the plat filed by the claimant is correct; that the field-notes of the survey, as filed, furnish such an accurate description of the claim as will, if incorporated into a patent, serve to fully identify the premises, and that such reference is made therein to natural objects or permanent monuments as will perpetuate and fix the *locus* thereof.

38. It will be the more convenient way to have this certificate indorsed by the surveyor-general, both upon the plat and field-notes of survey filed by the claimant as aforesaid.

39. After the sixty days' period of newspaper publication has expired the claimant will file his affidavit, showing that the plat and notice aforesaid remained conspicuously posted upon the claim sought to be patented during said sixty days' publication, giving the dates.

40. Upon the filing of this affidavit the register will, if no adverse claim was filed in his office during the period of publication, permit the claimant to pay for the land according to the area given in the plat and field-notes of survey aforesaid, at the rate of five dollars for each acre and five dollars for each fractional part of an acre, the receiver issuing the usual duplicate receipt therefor. The claimant will also make a sworn statement of all charges and fees paid by him for publication and surveys, together with all fees and money paid the register and receiver of the land-office; after which the whole matter will be forwarded to the Commissioner of the General Land-Office and a patent issued thereon if found regular.

41. In sending up the papers in the case the register must not omit certifying to the fact that the notice was posted in his office for the full period of sixty days, such certificate to state distinctly when such posting was done and how long continued.

42. The consecutive series of numbers of mineral entries must be continued whether the same

are of lode or placer claims.

43. The surveyor-general must continue to designate all surveyed mineral claims as heretofore by a progressive series of numbers, beginning with lot No. 37 in each township; the claim to be so designated at date of filing the plat, field-notes, &c., in addition to the local designation of the claim; it being required in all cases that the plat and field-notes of the survey of a claim must, in addition to the reference to permanent objects in the neighborhood, describe the *locus* of the claim with reference to the lines of public surveys by a line connecting a corner of the claim with the nearest public corner of the United States surveys, unless such claim be on unsurveyed lands at a remote distance from such public corner, in which latter case the reference by course and distance to permanent objects in the neighborhood will be a sufficient designation by which to fix the *locus* until the public surveys shall have been closed upon its boundaries.

ADVERSE CLAIMS.

44. Section 2323 provides for adverse claims, fixes the time within which they shall be filed to have legal effect, and prescribes the manner of their adjustment.

45. Said section requires that the adverse claim shall be filed during the period of publication of notice, that it must be on the oath of the adverse claimant; and that it must show the "*nature*," the "*boundaries*," and the "*extent*" of the adverse claim.

46. In order that this section of law may be properly carried into effect, the following is communicated for the information of all concerned:

47. An adverse mining-claim must be filed with the register of the same land-office with whom the application for patent was filed, or in his absence with the receiver, and within the sixty days' period of newspaper publication of notice.

48. The adverse notice must be duly sworn to by the person or persons making the same before an officer authorized to administer oaths within the land-district, or before the register or receiver; it will fully set forth the nature and extent of the interference or conflict; whether the adverse party claims as a purchaser for valuable consideration or as a locator; if the former, a certified copy of the original location, the original conveyance, a duly certified copy thereof, or an abstract of title from the office of the proper recorder should be furnished, or if the transaction was a mere verbal one he will narrate the circumstances attending the purchase, the date thereof and the amount paid, which facts should be supported by the affidavits of one or more witnesses if any were present at the time, and if he claims as a locator he must file a duly certified copy of the location from the office of the proper recorder.

49. In order that the "*boundaries*" and "*extent*" of the claim may be shown, it will be incumbent upon the adverse claimant to file a plat showing his entire claim, its relative situation or position with the one against which he claims, and the extent of the conflict. This plat must be made from an actual survey by a United States deputy surveyor who will officially certify thereon to its correctness; and in addition there must be attached to such plat of survey a certificate or sworn statement by the surveyor as to the approximate value of the labor performed or improvements made upon the claim by the adverse party or his predecessors in interest, and the plat must indicate the position of any shafts, tunnels, or other improvements, if any such exist, upon the claim of the party opposing the application, and by which party said improvements were made.

50. Upon the foregoing being filed within sixty days as aforesaid, the register, or in his absence the receiver, will give notice in writing to *both parties* to the contest that such adverse claim has been filed, informing them that the party who filed the adverse claim will be required within thirty days from the date of such filing to commence proceedings in a court of competent jurisdiction to determine the question of right of possession, and to prosecute the same with reasonable diligence to final judgment, and that should such adverse claimant fail to do so, his adverse claim will be considered waived, and the application for patent be allowed to proceed upon its merits.

51. When an adverse claim is filed as aforesaid, the register or receiver will indorse upon the same the precise date of filing, and preserve a record of the date of notifications issued thereon; and thereafter all proceedings on application for patent will be suspended, with the exception of the completion of the publication and posting of notices and plat, and the filing of the necessary proof thereof, until the controversy shall have been adjudicated in court, or the adverse claim waived or withdrawn.

52. The proceedings after rendition of judgment by the court in such case are so clearly defined by the act itself as to render it unnecessary to enlarge thereon in this place.

PLACER-CLAIMS.

53. The proceedings to obtain patents for claims usually called placers, including all forms of deposit, are similar to the proceedings prescribed for obtaining patents for vein or lode claims; but where said placer-claim shall be upon surveyed lands, and conform to legal subdivisions, no further survey or plat will be required, and all placer mining claims located after May 10, 1872, shall conform as nearly as practicable with the United States system of public-land surveys and the rectangular subdivisions of such surveys, and no such location shall include more than twenty acres for each individual claimant; but where placer-claims cannot be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands. But where such claims are located previous to the public surveys, and do not conform to legal subdivisions, survey, plat and entry thereof may be made according to the boundaries thereof, provided the location is in all respects legal.

54. The proceedings for obtaining patents for veins or lodes having already been fully given, it will not be necessary to repeat them here; it being thought that careful attention thereto by

applicants and the local officers will enable them to act understandingly in the matter and make such slight modification in the notice, or otherwise, as may be necessary in view of the different nature of the two classes of claims, placer-claims being fixed, however, at two dollars and fifty cents per acre, or fractional part of an acre.

55. By section 2330, authority is given for the subdivision of forty acre legal subdivisions into *ten-acre* lots, which is intended for the greater convenience of miners in segregating their claims both from one another and from intervening agricultural lands.

56. It is held, therefore, that under a proper construction of the law these ten-acre lots in mining districts should be considered and dealt with, to all intents and purposes, as legal subdivisions, and that an applicant having a legal claim which conforms to one or more of these ten acre lots, either adjoining or cornering, may make entry thereof, after the usual proceedings, without further survey or plat.

57. In cases of this kind, however, the notice given of the application must be very specific and accurate in description, and as the forty-acre tracts may be subdivided into ten-acre lots, either in the form of squares of ten by ten chains, or of parallelograms five by twenty chains, so long as the lines are parallel and at right angles with the lines of the public surveys, it will be necessary that the notice and application state specifically what ten acre lots are sought to be patented, in addition to the other *data* required in the notice.

58. Where the ten-acre subdivision is in the form of a square it may be described, for instance, as the "S. E ¼ of the S. W. ¼ of N. W. ¼," or, if in the form of a parallelogram as aforesaid, it may be described as the "W. ½ of the W. ½ of the S. W. ¼ of the N. W. ¼ (or the N. ½ of the S. ½ of the N. E. ¼ of the S. E. ¼) of section ——, township——, range——," as the case may be; but, in addition to this description of the land, the notice must give all the other *data* that is required in a mineral application, by which parties may be put on inquiry as to the premises sought to be patented. The proof submitted with applications for claims of this kind must show clearly the character and the extent of the improvements upon the premises.

59. Applicants for patent to a placer-claim, who are also in possession of a known vein or lode included therein, must state in their application that the placer includes such vein or lode. The published and posted notices must also include such statement; and the vein or lode must be surveyed and marked upon the plat; the field-notes and plat giving the area of the lode claim or claims and the area of the placer separately. If veins or lodes lying within a placer location are owned by other parties, the fact should be distinctly stated in the application for patent, and in all the notices. It should be remembered that an application which omits to include an application for a known vein or lode therein, must be construed as a conclusive declaration that the applicant has no right of possession to the vein or lode. Where there is no known lode or vein, the fact must appear by the affidavit of claimant and one or more witnesses

60. When an adverse claim is filed to a placer application, the proceedings are the same as in the case of vein or lode claims, already described.

QUANTITY OF PLACER GROUND SUBJECT TO LOCATION.

61. By section 2330 it is declared that no location of a placer-claim, made after July 9, 1870, shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys.

62. Section 2331 provides that all placer-mining claims located after May 10, 1872, shall conform as nearly as practicable with the United States system of public surveys and the subdivisions of such surveys, and no such locations shall include more than twenty acres for each individual claimant.

63. The foregoing provisions of law are construed to mean that after the 9th day of July, 1870, no location of a placer-claim can be made to exceed one hundred and sixty acres, whatever may be the number of locators associated together, or whatever the local regulations of the district may allow; and that from and after May 10, 1872, no location made by an individual can exceed twenty acres, and no location made by an association of individuals can exceed one hundred and sixty acres, which location of one hundred and sixty acres cannot be made by a less number than eight *bona fide* locators; and no local laws or mining regulations can restrict a placer location to less than twenty acres, although the locator is not compelled to take so much.

64. The regulations hereinbefore given as to the manner of marking locations on the ground and placing the same on record, must be observed in the case of placer locations, so far as the same are applicable; the law requiring, however, that where placer-claims are upon *surveyed* public lands the locations must hereafter be made to conform to legal subdivisions thereof as near as practicable

65. With regard to the proofs necessary to establish the possessory right to a placer-claim, section 2332 provides that "where such person or association, they and their grantors, have held and worked their claims for a period equal to the time prescribed by the statute of limitations for mining-claims of the State or Territory where the same may be situated, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under this chapter, in the absence of any adverse claim."

66. This provision of law will greatly lessen the burden of proof, more especially in the case of old claims located many years since, the records of which, in many cases, have been destroyed by fire, or lost in other ways, during the lapse of time, but concerning the possessory right to which all controversy or litigation has long been settled.

67. When an applicant desires to make his proof of possessory right in accordance with this provision of law, you will not require him to produce evidence of location, copies of conveyances, or abstracts of title, as in other cases, but will require him to furnish a duly certified copy of the statute of limitations of mining-claims for the State or Territory, together with his sworn statement giving a clear and succinct narration of the facts as to the origin of his title, and likewise as to the continuation of his possession of the mining-ground covered by his application; the area thereof, the nature and extent of the mining that has been done thereon; whether there has been

any opposition to his possession, or litigation with regard to his claim, and, if so, when the same ceased; whether such cessation was caused by compromise or by judicial decree, and any additional facts within the claimant's knowledge having a direct bearing upon his possession and *bona fides* which he may desire to submit in support of his claim.

68. There should likewise be filed a certificate, under seal of the court having jurisdiction of mining cases within the judicial district embracing the claim, that no suit or action of any character whatever involving the right of possession to any portion of the claim applied for is pending, and that there has been no litigation before said court affecting the title to said claim or any part thereof for a period equal to the time fixed by the statute of limitations for mining-claims in the State or Territory as aforesaid, other than that which has been finally decided in favor of the claimant.

69. The claimant should support his narrative of facts relative to his possession, occupancy, and improvements by corroborative testimony of any disinterested person or persons of credibility who may be cognizant of the facts in the case and are capable of testifying understandingly in the premises.

70. It will be to the advantage of claimants to make their proofs as full and complete as practicable.

MILL-SITES.

71. Section 2337 provides that, "where non-mineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such non-adjacent surface-ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable to veins or lodes; but no location hereafter made of such non-adjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by this chapter for the superficies of the lode. The owner of a quartz-mill or reduction works, not owning a mine in connection therewith, may also receive a patent for his mill-site as provided in this section."

72. To avail themselves of this provision of law, parties holding the possessory right to a vein or lode, and to a piece of non-mineral land not contiguous thereto, for mining and milling purposes, not exceeding the quantity allowed for such purposes by section 2337 United State Revised Statutes, or prior laws, under which the land was appropriated, the proprietors of such vein or lode may file in the proper land-office their application for a patent, under oath, in manner already set forth herein, which application, together with the plat and field notes, may include, embrace, and describe, in addition to the vein or lode, such non-contiguous mill site; and after due proceedings as to notice, &c., a patent will be issued, conveying the same as one claim.

73. In making the survey in a case of this kind, the lode-claim should be described in the plat and field-notes as "Lot No. 37, A," and the mill-site as "Lot No. 37, B," or whatever may be its appropriate numerical designation: the course and distance from a corner of the mill-site to a corner of the lode-claim to be invariably given in such plat and field-notes, and a copy of the plat and notice of application for patent must be conspicuously posted upon the mill-site as well as upon the vein or lode for the statutory period of sixty days. In making the entry no separate receipt or certificate need be issued for the mill site, but the whole area of both lode and mill-site will be embraced in one entry, the price being five dollars for each acre and fractional part of an acre embraced by such lode and mill-site claim.

74. In case the owner of a quartz mill or reduction works is not the owner or claimant of a vein or lode, the law permits him to make application therefor, in the same manner prescribed herein for mining-claims, and after due notice and proceedings, in the absence of a valid adverse filing to enter and receive a patent for his mill-site at said price per acre.

75. In every case there must be satisfactory proof that the land claimed as a mill-site is not mineral in character, which proof may, where the matter is unquestioned, consist of the sworn statement of the claimant, supported by that of one or more disinterested persons capable from acquaintance with the land to testify understandingly.

76. The law expressly limits mill-site locations made from and after its passage to *five acres*.

77. The register and receiver will preserve an unbroken consecutive series of numbers for all mineral entries.

PROOF OF CITIZENSHIP OF MINING CLAIMANTS.

78. The proof necessary to establish the citizenship of applicants for mining-patents must be made in the following manner: In case of an incorporated company, a certified copy of their charter or certificate of incorporation must be filed. In case of an association of persons unincorporated, the affidavit of their duly authorized agent, made upon his own knowledge, or upon information and belief, setting forth the residence of each person forming such association, must be submitted. This affidavit must be accompanied by a power of attorney from the parties forming such association authorizing the person who makes the affidavit of citizenship to act for them in the matter of their application for patent.

79. In case of a natural individual or an association of individuals who do not appear by their duly authorized agent, you will require the affidavit of each applicant, showing whether he is a native or naturalized citizen, when and where born, and his residence.

80. In case an applicant has declared his intention to become a citizen, or has been naturalized, his affidavit must show the date, place, and the court before which he declared his intention, or from which his certificate of citizenship issued, and present residence.

81. The affidavit of citizenship may be taken before the register and receiver or any other officer authorized to administer oaths within the district.

APPOINTMENT OF DEPUTY SURVEYORS OF MINING-CLAIMS—CHARGES FOR SURVEYS AND PUBLICATIONS —FEES OF REGISTERS AND RECEIVERS, &C.

82. Section 2334 provides for the appointment of surveyors of mineral claims, authorizes the Commissioners of the General Land Office to establish the rates to be charged for surveys and for newspaper publications, prescribes the fees allowed to the local officers for receiving and acting upon applications for mining-patents and for adverse claims thereto, &c.

83. The surveyors general of the several districts will, in pursuance of said law, appoint in each land-district as many *competent* deputies for the survey of mining-claims as may seek such appointment; it being distinctly understood that all expenses of the notices and surveys are to be borne by the mining-claimants and not by the United States; the system of making deposits for mineral surveys, as required by previous instructions, being hereby revoked as regards *field-work;* the claimant having the option of employing *any* deputy surveyor within such district to do his work in the field.

84. With regard to the *platting* of the claim and other *office-work* in the surveyor-general's office, that officer will make an estimate of the cost thereof, which amount the claimant will deposit with any assistant United States treasurer, or designated depository, in favor of the United States Treasurer, to be passed to the credit of the fund created by "individual depositors for surveys of the public lands," and file with the surveyor general duplicate certificates of such deposit in the usual manner.

85. The surveyors general will endeavor to appoint mineral deputy surveyors so that one or more may be located in each mining district for the greater convenience of miners.

86. The usual oaths will be required of these deputies and their assistants as to the correctness of each survey executed by them.

87. The law requires that each applicant shall file with the register and receiver a sworn statement of all charges and fees paid by him for publication of notice and survey; together with all fees and money paid the register and receiver, which sworn statement is required to be transmitted to this office, for the information of the Commissioner.

88. Should it appear that excessive or exorbitant charges have been made by any surveyor or any publisher, prompt action will be taken with the view of correcting the abuse.

89. The fees payable to the register and receiver for filing and action upon applications for mineral-land patents are five dollars to each officer, to be paid by the applicant for patent at the time of filing, and the like sum of five dollars is payable to each officer by an adverse claimant at the time of filing his adverse claim.

90. All fees or charges under this law may be paid in United States currency.

91. The register and receiver will, at the close of each month, forward to this office an abstract of mining applications filed, and a register of receipts, accompanied with an abstract of mineral lands sold, and an abstract of adverse claims filed.

92. The fees and purchase money received by registers and receivers must be placed to the credit of the United States in the receiver's monthly and quarterly account, charging up in the disbursing account the sums to which the register and receiver may be respectively entitled as fees and commissions, with limitations in regard to the legal maximum.

HEARINGS TO ESTABLISH THE CHARACTER OF LANDS.

93. Section 2335 provides that all affidavits required under this chapter may be verified before *any* officer authorized to administer oaths within the land district where the claims may be situated, and all testimony and proofs may be taken before any such officer and when duly certified by the officer taking the same shall have the same force and effect as if taken before the register and receiver of the land office.

94. Hearings of this character, as practically distinguished, are of two kinds:

1st. Where lands which are sought to be entered and patented as agricultural are alleged by affidavit to be mineral, or when sought as mineral their non-mineral character is alleged.

The proceedings relative to this class are in the nature of a contest between two or more known parties, and the testimony may be taken on personal notice of at least ten days, duly served on all parties, or, if they cannot be found, then by publication for thirty days in a newspaper of general circulation, to be designated by the register of the land-office as published nearest to the land in controversy. If publication is made in a weekly newspaper, the notice must be inserted in five consecutive weekly issues thereof.

2d When lands are returned as mineral by the surveyor-general, or are withdrawn as mineral by the direction of this office.

When such lands are sought to be entered as agricultural, notice must be given by publication for thirty days, as aforesaid, and also by posting in a conspicuous place on each forty-acre subdivision of the land claimed, for the same period.

95. All notices must describe the land, give the name and address of the claimant, the character of his claim, and the time, place and purpose of the hearing.

Proof of service of notice, when personal, must consist of either acknowledgement of service indorsed on the citation, (which is always desirable,) or the affidavit of the party serving the same, giving date, place, and manner of service, indorsed as aforesaid.

Proof of publication must be the affidavit of the publisher of the newspaper, stating the period of publication, giving dates, stating whether in a daily or weekly issue, and a copy of the notice so published must be attached to, and form a part of, the affidavit.

Proof of posting on the claim must be made by the affidavit of two or more persons who state when and where the notice was posted; that it remained so posted during the prescribed period giving dates, and a copy of the notice so posted must be attached to, and make a part of, the affidavit.

Proof of notice is indispensable to the regularity of proceedings and must accompany the record in every case.

The expense of notice must in every case be paid by the parties thereto.

96. At the hearing there must be filed the affidavit of the publisher of the paper that the said notice was published for the required time, stating when and for how long such publication was made, a printed copy thereof to be attached and made a part of the affidavit. In every case where practicable, in addition to the foregoing, *personal* notice must be served upon the mineral claimants, and upon any parties who may be mining upon or claiming the land.

97. At the hearing the claimants and witnesses will be thoroughly examined with regard to the character of the land; whether the same has been thoroughly prospected; whether or not there exists within the tract or tracts claimed any lode or vein of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or other valuable deposit which has ever been claimed, located, recorded or worked; whether such work is entirely abandoned, or whether occasionally resumed; if such lode does exist by whom claimed, under what designation, and in which subdivision of the land it lies; whether any placer-mine or mines exist upon the land; if so, what is the character thereof—whether of the shallow-surface description, or of the deep cement, blue lead, or gravel deposits; to what extent mining is carried on when water can be obtained, and what the facilities are for obtaining water for mining purposes; upon what particular ten-acre subdivisions mining has been done, and at what time the land was abandoned for mining purposes if abandoned at all.

98. The testimony should also show the agricultural capacity of the land, what kind of crops are raised thereon, and the value thereof; the number of acres actually cultivated for crops of cereals or vegetables, and within which particular ten-acre subdivisions such crops are raised, also which of these subdivisions embrace his improvements, giving in detail the extent and value of his improvements, such as house, barn, vineyard, orchard, fencing, etc.

99. It is thought that *bona fide* settlers upon lands really agricultural will be able to show, by a clear, logical, and succinct chain of evidence, that their claims are founded upon law and justice; while parties who have made little or no permanent agricultural improvements, and who only seek title for speculative purposes, on account of the mineral deposits known to themselves to be contained in the land, will be defeated in their intentions.

100. The testimony should be as full and complete as possible; and in addition to the leading points indicated above, everything of importance bearing upon the question of the charter of the land should be elicited at the hearing.

101. Where the testimony is taken before an officer who does not use a seal, other than the register and receiver, the official character of such officer must be attested by a clerk of a court of record, and the testimony transmitted to the register and receiver, who will thereupon examine and forward the same to this office, with their joint opinion as to the character of the land as shown by the testimony.

102. When the case comes before this office such an award of the land will be made as the law and the facts may justify; and in cases where a survey is necessary to set apart the mineral from the agricultural land in any forty-acre tract, the necessary instructions will be issued to enable the agricultural claimant, at his own expense, to have the work done, at his option, either by United States deputy, county, or other local surveyor; the survey in such case may be executed in such manner as will segregate the portion of land actually containing the mine, and used as surface-ground for the convenient working thereof, from the remainder of the tract, which remainder will be patented to the agriculturist to whom the same may have been awarded, subject, however to the condition that the land may be entered upon by the proprietor of any vein or lode for which a patent has been issued by the United States for the purpose of extracting and removing the ore from the same, where found to penetrate or intersect the land so patented as agricultural, as stipulated by the mining act.

103. Such survey when executed must be properly sworn to by the surveyor, either before a notary public, officer of a court of record, or before the register or receiver, the deponents character and credibility to be properly certified to by the officer administering the oath.

104. Upon the filing of the plat and field-notes of such survey, duly sworn to as aforesaid, you will transmit the same to the surveyor general for his verification and approval; who, if he finds the work correctly performed, will properly mark out the same upon the original township plat in his office, and furnish authenticated copies of such plat and description both to the proper local land-office and to this office, to be affixed to the duplicate and triplicate township-plats respectively.

105. In cases where a portion of a forty acre tract is awarded to an agricultural claimant and he causes the segregation thereof from the mineral portion, as aforesaid, such agricultural portion will not be given a numerical designation as in the case of surveyed mineral claims, but will simply be described as the "Fractional ——— quarter of the ——— quarter of section ———, in township ——— of range ———, meridian, containing ——— acres, the same being exclusive of the land adjudged to be mineral in said forty-acre tract."

106. The surveyor must correctly compute the area of such agricultural portion, which computation will be verified by the surveyor general.

107. After the authenticated plat and field-notes of the survey have been received from the surveyor-general, this office will issue the necessary order for the entry of the land, and in issuing the receiver's receipt and register's patent certificate you will invariably be governed by the description of the land given in the order from this office.

108. The fees for taking testimony and reducing the same to writing, in these cases, will have to be defrayed by the parties in interest. Where such testimony is taken before any other officer than the register and receiver, the register and receiver will be entitled to no fees,

109. If, upon a review of the testimony at this office, a ten-acre tract should be found to be properly mineral in character, that fact will be no bar to the execution of the settler's legal right to the remaining non-mineral portion of his claim, if contiguous.

110. No fear need be entertained that miners will be permitted to make entries of tracts ostensibly as mining-claims, which are not mineral, simply for the purpose of obtaining possession and defrauding settlers out of their valuable agricultural improvements; it being almost an impossibility for such a fraud to be consummated under the laws and regulations applicable to obtaining patents for mining-claims.

111. The fact that a certain tract of land is decided upon testimony to be mineral in character is by no means equivalent to an award of the land to a miner A miner is compelled by law to give sixty days' publication of notice, and posting of diagrams and notices, as a preliminary step; and then, before he can enter the land, he must show that the land yields mineral; that he is entitled to the possessory right thereto in virtue of compliance with local customs or rules of miners, or by virtue of the statute of limitations; that he or his grantors have expended, in actual labor or improvements, an amount of not less than five hundred dollars thereon, and that the claim is one in regard to which there is no controversy or opposing claim. After all these proofs are met, he is entitled to have a survey made at his own cost, where a survey is required, after which he can enter and pay for the land embraced by his claim.

J. A. WILLIAMSON,
Commissioner.

FORMS.

FORM A.

Notice of Location.

Notice is hereby given that the undersigned, having complied with the requirements of Chapter Six of Title Thirty-two of the Revised Statutes of the United States, and the local customs, laws and regulations, has located ..... linear feet on the ..... lode, situated in ..... Mining District, ... County, ..., and described as follows:

[*Describe the claim as accurately as possible (by courses and distances) with reference to some natural object or permanent monument, and mark the boundaries by suitable monuments; if a placer-claim is located on surveyed land, describe the legal subdivision.*]

Discovered ..... 18 .

Located ..... 18 . Recorded ..... 18 .

...., Locator.

Attest:

.....

.....

Note.—Record of location notice, in the absence of a District Recorder, should be made with the proper Recorder of Deeds for the county wherein the claim is situated. It is advisable to have these notices attested by at least two witnesses, for locators cannot be too careful about their evidence.

In re-locations to increase width of surface ground under the local law, or to more particularly identify or describe the claim, use the above form, but state after the description that it is a re-location, and in addition where the original location is recorded, in order that the title may revert back to the original discovery.

In locations of abandoned mines, the fact that it is such a location should be stated, and the affidavits of two or more respectable parties that such mine was abandoned and subject to re-location should be recorded with the location notice.

FORM B.

Proof of Labor.

..... *of* ....., *County of* ....., *ss.*

Before me the subscriber personally appeared ..... who being duly sworn says that at least .... dollars worth of labor or improvements were performed or made upon [here describe claim] situated in ..... mining district, ... county, ... of ....., during the year ending ...., 18 . Such expenditure was made by or at the expense of ...., owners of said claim, for the purpose of holding said claim.

[Jurat.]

.... (Signature.)

Note —The record of an affidavit like the above is prima facie evidence of the performance of such labor.

FORM C.

Notice of Forfeiture.

..... County .... 18 .

To ... . (names of all parties who have record title to any portion of the mine). You are hereby notified that I have expended ..... dollars in labor and improvements upon the ..... lode (describe the claim) as will appear by certificate filed ..... 18 in the office of the recorder of said county (or district) in order to hold said premises under the provisions of Section 2324 Revised Statutes of the United States, being the amount required to hold the same for the year ending . ... 188 . And if within ninety days from the service of this notice (or within ninety days after this notice by publication), you fail or refuse to contribute your proportion of such expenditure as a co-owner, your interest in said claim will become the property of the subscriber under said section 2324.

.... (Signature.)

Note.—At the expiration of 18) *days, this printed notice should be recorded, with the affidavit of the newspaper publisher that the same was published for the period of ninety days, together with the affidavit of the party signing the notice to the effect that one or more of the co-owners named in the published notice have not paid their share of the expenditure. This completes the record title.*

FORM D.

Miner's Lien.

KNOW ALL MEN BY THESE PRESENTS, That I, ..., of the county of .. ..., ... of ....., do hereby give notice of my intention to hold and claim a lien, by virtue of the statute in such case made and provided, upon ..... (describe premises,) with all improvements and appurtenances, situated in ..... Mining District, County of ....., ... of .....

The said lien being claimed and held for and on account of work and labor done by me as..... for ....., owner of said premises in and upon said premises, from the ..... day of ..... A. D. 18 , to the ..... day of ..... A. D. 18 .

The total value of the said work and labor being ..... dollars, upon which there has been paid the sum of .... dollars, leaving a balance of .... dollars still due, owing and unpaid to me the said claimant.

.... (Signature.)

..... of ....., } ss
County of ...., }

On this .... day of .... A. D. 18.., personally appeared before me the above named ....., and who being by me first duly sworn, on .... oath states that the abstract of indebtedness mentioned and described in the foregoing notice, is true and correct, and that there is still due and owing to .... from the said ...., for the .... aforesaid, the sum of .... dollars and .... cents.

.... (Signature.)

Subscribed and sworn to before me this .... day of .... A. D. 188 .

.... (Official signature.)

[1] *Note.—For materials insert "goods furnished and delivered to owners of said premises, for use on said premises, and which were used on said premises." Below, substitute "materials furnished, to-wit: Powder, lumber, etc., as per bill annexed" in place of "work and labor."*

FORM E.

Application for Survey.

...., 18..

To .... , United States Surveyor-General for.....:

SIR—In compliance with the provisions of Chapter Six of Title Thirty-two, Revised Statutes of the United States, ... herewith make application for an official survey of the mining claim known as the ..... mine, claimed by . ...., located in ..... Mining District, in the county of ....., Township No. ....., Range No. ....., ... base and meridian, in the ..... of ....., and ..... request that you will send to ..... address an estimate of the amount to be deposited, for the work to be done in your office; and that after such deposit shall have been made, you will cause the said mining-claim to be surveyed by ....., United States Deputy Surveyor at .... .

Respectfully.

.... Claimant.

P. O. Address, ..., ... county, ...

Note—Survey is not required when placer-claims embrace legal subdivisions.

FORM F.

Application for Patent.

....., *County of* ....., *ss.*

APPLICATION FOR PATENT FOR THE .... MINING CLAIM.

To the Register and Receiver of the U. S. Land Office at.....

. ...., being duly sworn according to law, deposes and says, that in virtue of a compliance with the mining rules, regulations and customs, by himself, the said .. ... and his co-claimants, (residence of each should be stated,) ....,., applicants for patent herein ha.. become the owner of and .... in the actual, quiet and undisturbed possession of ... .. linear feet of the ... . vein, lode or deposit, bearing ...., together with surface ground ..... feet in width, for the convenient working thereof as allowed by local rules and customs of miners; said mineral claim, vein, lode or deposit and surface ground being situated in the ..... mining district. County of .... and ..... of ..... and being more particularly set forth and described in the official field-notes of survey thereof, hereto attached, dated ..... day of ..... A. D. 18 ., and in the official plat of said survey, now posted conspicuously upon said mining claim or premises, a copy of which is filed herewith. Deponent further states that the facts relative to the right of possession of himself (and his said co-claimants hereinbefore named) to said mining-claim, vein, lode or deposit and surface ground, so surveyed and platted, are substantially as follows, to-wit:

(*Trace the History of the lode fully.*)

Which will more fully appear by reference to the copy of the original record of location and the abstract of title hereto attached and made a part of this affidavit; the value of the labor done and improvements made upon said ..... claim, by himself and his grantors, being equal to the sum of five hundred dollars, and said improvements consist of (*describe fully*). In consideration of which facts, and in conformity with the provisions of Chapter Six of Title Thirty-two of the Revised Statutes of the United States, application is hereby made for and in behalf of said . for a patent from the Government of the United States for the said .... . mining claim, vein lode, or deposit, and the surface ground so officially surveyed and platted. ..... .

Subscribed and sworn to before me, this ..... day of ... .. A. D. 18. , and I hereby certify that I consider the above deponent a credible and reliable person, and that the foregoing affidavit to which was attached the field-notes of survey of the . .. mining-claim was read and examined by him before his signature was affixed thereto and the oath made by him.

Official Signature.)

Note.—The above is slightly changed in applying for placer-mine

FORM G.

Proof of Posting Notice and Diagram on the Claim.

..... *of* ..... *County of* ... .., *ss.*

....and ...each for himself, and not one for the other, being first duly sworn according to law, deposes and says, that he is a citizen of the United States, over the age of twenty-one years, and was present on the ..... day of ....., A. D. 18.., when a plat representing the ..... certified to as correct by the United States surveyor-general of ..... and designated by him as Lot. No. ....., together with a notice of the intention of ..... and ..... to apply for a patent for the mining-claim and premises so platted, was posted in a conspicuous place upon said mining-claim. to-wit: upon .... ., where the same could be easily seen and examined, the notice so conspicuously posted upon said claim being in words and figures as follows, to-wit:

NOTICE OF THE APPLICATION OF ..... AND ..... FOR A UNITED STATES PATENT.

Notice is hereby given that in pursuance of Chapter Six of Title Thirty-two of the Revised Statutes of the United States, ... and ....., claiming ..... linear feet of the ..... vein, lode or mineral deposit, bearing ....., with surface ground ....., feet in width, lying and being situated within the ..... mining district, county of ....., and ..... of .., ha.. made application to the United States for a patent for the said mining-claim. which is more fully described as to metes and bounds by the official plat herewith posted and by the field-notes of survey thereof, now filed in the office of the register of the District of Lands, subject to sale at ....., which field-notes of survey describe the boundaries and extent of said claim on the surface, with magnetic variations at ....., east, as follows, to-wit:

(*Full description by course and distances.*)

the said mining-clam being of record in the office of the recorder of ....., at ....., in the county and ..... aforesaid, the presumed general course or direction of the said ..... vein, lode or mineral deposit to be shown upon the plat posted herewith, as near as can be determined from present development, this claim being for .. .. linear feet thereof, together with the surface ground shown upon the official plat posted herewith, the said vein, lode and mining premises hereby sought to be patented being bounded on the ....., by the ..... mining-claim.

Any and all persons claiming adversely the mining ground, vein, lode premises or any portion thereof so described, surveyed, platted and applied for, are hereby notified that unless their adverse claims are duly filed as according to law and the regulations thereunder within sixty days from the date hereof with the register of the United States Land-Office at ....., in the ....., of ....., they will be barred, in virtue of the provisions of said statute.

.... (Names of applicants.)

Dated on the ground this ..... day of ....., A. D., 18..

Witness: ....

(Names of witnesses.) ....

Subscribed and sworn to before me this ..... day of ....., A. D., 18.. and I hereby certify that I consider the above deponents credible and reliable witnesses, and that the foregoing affidavit and notice were read by each of them before their signatures were affixed thereto and the oath made by them. ....

Note.—The notice to be posted on the claim with the plat is given in the above form.

FORM H.

Proof that Plat and Notice Remained Posted on Claim During Period of Publication.

.....*of*.....*County of*.....,*ss.*

....., being first duly sworn according to law, deposes and says, that he is claimant (and co-owner with .....) in the ..... mining claim, ... mining-district, ...,. county, the official plat of which premises, designated by the surveyor-general as lot No ....., together with the notice of intention to apply for a patent therefor, was posted thereon, on the ..... day of ....., A. D. 18.,, as fully set forth and described in the affidavit of ..... and ....., dated the ....day of ..... A. D. 18.., which affidavit was duly filed in the office of the register, at ..... in this case; and that the plat and notice so mentioned and described, remained continuously and conspicuously posted upon said mining-claim from the ..... day of ..... , A. D. 18.., until and including the ... .. day of ...., A. D., 18.., including the sixty days period during which notice of said application for patent was published in the newspaper.

[Jurat.]

....

(One of the applicants.)

FORM I.

Register's Certificate of Posting Notice for Sixty Days.

United States Land-Office, at ....., ..., 18 ..

I hereby certify that the official plat of the ..... lode designated by the Surveyor-General as Lot No. ..... was filed in this office on the ..... day of ....., A. D., 18.., and that the attached notice of the intention of ..... to apply for a patent for the mining-claim or premises embraced by said plat, and described in the field-notes of survey thereof filed in said application, was posted conspicuously in this office on the ..... day of ....., A. D.. 18.., and remained so posted until the ..... day of ....., A. D. 18.., being the full period of sixty consecutive

days during the period of publication as required by law; and that said plat remained in this office during the time, subject to examination, and that no adverse claim thereto has been filed.

...., Register.

Note.—The notice posted in the office should be attached to this certificate; a copy of the notice published is the one usually posted in the Register's office.

FORM J.

Notice for Publication in Newspaper:

Mining Application No.....

United States Land Office, ... 18..

Notice is hereby given that ....., whose post office address is ..... has this day filed his application for a patent for ..... linear feet of the ..... mine or vein bearing ....., with surface ground ..... feet in width, situated in ..... mining district, County of ... ... and ..... of ....., and designated by the field-notes and official plat on file in this office as Lot No. ...., in township ...., range...., of ...., meridian .... Said Lot No. .... being described as follows, to-wit: Beginning at, etc.

Magnetic variation .. , containing .... acres.

The location of this mine is recorded in the recorder's office of ...., in book .... of ... . The adjoining claimants are ....

Any and all persons claiming adversely any portion of said .... mine or surface ground are required to file their adverse claims with the Register of the United States Land-Office at .. , in the .... of ...., during the sixty days period of publication hereof, or they will be barred by virtue of the provisions of the Statute.

...., Register.

FORM K.

Agreement of Publisher.

The undersigned publisher and proprietor of the ...., a .... newspaper, published at ... , County of ...., and .. of ...., does hereby agree to publish a notice, dated United States Land Office, ... required by Chapter Six of Title Thirty-two, Revised Statutes of the United States, of the intention of .... to apply for a patent for his claim on the .... lode, situated in .... Mining District, County of ...., of ...., and to hold the said .... alone responsible for the amount due for publishing the same. And it is hereby expressly stipulated and agreed that no claim shall be made against the Government of the United States, or its officers or agents, for such publication.

Witness my hand and seal this .... day of ...., A. D. 18..

Witness:

.....

....

FORM L.

Proof of Publication.

..... *of* ....., *County of* ....., *ss.*

Reprinted copy of } ....., being first duly sworn, deposes and says, that he is the .... of the Notice of application. } ...., a newspaper published at ... , in .... county, in the .... of ...; that the notice of the application for a patent for the ... mining claim, of which a copy is hereto attached, was first published in said newspaper, in its issue dated the .... of .... 18.., and was published in each [daily or weekly] issue of said newspaper for [sixty consecutive days, or nine consecutive weeks] thereafter, the full period of sixty days, the last publication thereof being in the issue dated the .... of .... 18..

....

Subscribed and sworn to before me, this .... day of ...., A. D. 18 .

[SEAL.]

...., Notary Public.

FORM M.

Affidavit of Five Hundred Dollars Improvement.

..... *of* ....., *County of* ....., *ss.*

..... and ....., of lawful age, being first duly sworn according to law, depose and say that they are acquainted with the .... mining claim in .... mining district, county and .... aforesaid, for which .... has made application for patent under the provisions of Chapter Six of Title Thirty-two, Revised Statutes of the United States, and that the labor done and improvements made thereon by the applicant and his grantors exceed five hundred dollars in value, and said improvements consist of (describe fully).

....

Subscribed and sworn to before me, this .... day of ...., A. D., 18..

....

FORM N.

Statement of Fees and Charges:

..... *of* ....., *County of* ....., *ss.*

....., being first duly sworn according to law, deposes and says that he is the applicant for patent for the .. lode in ... mining district, county of .. , ... of ...., under the provisions of Chapter Six of Title Thirty-two of the Revised Statutes of the United States, and that in the prosecution of said application he has paid out the following amounts, viz.: to the credit of the surveyor-general's office, ... dollars; for surveying .... dollars; for filing in the local land office, ... dollars; for publication of notice, ... dollars; and for the land embraced in his claim, ... dollars. ....

Subscribed and sworn to before me this .... day of ...., A. D. 18..

[SEAL.] ....., Notary Public.

FORM O.

Proof of Ownership and Possession in Case of Loss or Absence of Mining Records.

..... *of* .....*County of* ....., *ss.*

... . and ...., each for himself, and not one for the other, being first duly sworn according to law, deposes and says that he is a citizen of the United States, over the age of twenty-one years, and a resident of .... county, ..., and has resided in ... mining district, wherein the .... mine is situated, since ....day of ...., 18.. That since said date he has been acquainted with the ... mine, and with the possessors and workers thereof. That said mine was located and has been possessed and worked in accordance with the customs and usages of miners in said district, and in conformity with the rules and regulations governing the location, holding and working of mining-claims, in force and observed in the (State) of ..... That there are no written records known to deponent existing in said mining district. That affiant is credibly informed and believes that the ... mine was located in the year 18.., and that if any record was made of said location, and of the names of locators, the same has not been in existence for a long number of years past, and that by reason thereof the names of locators, cannot now be ascertained, and no abstract of title from locators to the present owner can be made. That the possession of applicant and his predecessors in interest of said .... mine has been actual, notorious and continuous, to the positive knowledge of deponent, since his residence in said mining district, and that such possession has been perfected and maintained in conformity with mining usages and customs, and had been acquiesced in and respected by the miners of said district. That applicant's right to the said .... mine is not in litigation within the knowledgs of affiant, and that no action or actions have been commenced affecting the right to said mine since his acquaintance therewith (and that the time for the commencement thereof, as required to be instituted under the provision of the Statute of limitation of the .... of ...., has long since elapsed). That applicant and his predecessors in interest have expended in the improvements, development and working of said mine a sum of money exceeding .... dollars, as follows, to-wit.... ....

....

....

Subscribed and sworn to before me, this .... day of ...., A. D.. 18.., and I certify that the aforenamed .... and .... are credible and respectable persons, to whose affidavits full faith and credit should be given.

[SEAL.] ....

Note.—This should be sworn to by at least two respectable persons, and by the applicant for patent.

FORM P

Affidavit of Citizenship.

..... *of* ...., *County of* ....., *ss.*

...., being first duly sworn according to law, deposes and says, that he is the applicant for patent for .... mining-claim, situated in .... mining district, county of ....; that he is a native-born citizen of the United States, born in ...., county of ...., State of ...., in the year 18.. and is now a resident of ....

Subscribed and sworn to before me this .... day of...., A. D. 18.. ....

Note.—If the applicant is a naturalized citizen or has declared his intention to become a citizen, he should show in his affidavit where, when and before what court he was naturalized or his declaration was made.

FORM Q.

Certificate that no Suit is Pending.

.. ... *of* ....., *County of* ....., *ss.*

I, . .., clerk of the court in and for ... county, ..., do hereby certify that there is now no suit or action of any character pending in said court involving the right of possession to any portion of .... mining-claim, and that there has been no litigation before said court affecting the title to said claim, or any part thereof, for .... years last past other than what has been finally decided in favor of ....

In witness whereof, I have hereunto set my hand and affixed the seal of said court, at my office in ..., this ... day of ...., A D. 18..

[SEAL.] ... ., Clerk of the .... Court ....

FORM R.

Power of Attorney.

KNOW ALL MEN BY THESE PRESENTS, that we, ... and .... do hereby constitute and appoint....as our attorney in fact, for us and in our names to make application to the United States for the entry and purchase of certain Government lands, in .... mining district, ... county, ... of ...., known as the .... mining claim and premises; and to have the same surveyed, and to take any and all steps that may be necessary to procure from the Government of the United States a patent to the said lands and premises, granting the same to us, and to do all other acts appertaining to the said survey and entry aforesaid as we ourselves could do by our own act and in our own proper person.

In witness whereof we have hereunto set our hands and affixed our seals the ....day of...., A. D. 18..

....
....

..... *of* ....., *County of* ....., *ss.*

On this ..... day of ....., A. D. 18.., before me, ... a Notary Public in and for the....., County of ....., personally appeared .... ., known to me to be the same person whose name ..... subscribed to the foregoing instrument, and acknowledged to me that ..... executed the same.

In witness whereof I have hereunto set my hand and affixed my official seal at my office, the day and year in this certificate first above written.

[SEAL.] ...., Notary Public.

FORM S.

Proof that no Known Vein Exists in a Placer Mining Claim.

..... *of* ....., *County of* ....., *ss.*

..... and ....., of the said county and ....., being first duly sworn, each for himself, deposes and says, that he is well acquainted with the . .... placer mining claim, embracing ....., situated in the ..... mining district, in the county of , and ..... of ..... owned and worked by ....., applicant for United States patent; that for many years he has resided near, and often been upon the said mining premises, and that no known vein or veins of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin or copper, exist on said mining-claim, or on any part thereof, so far as he knows, and he verily believes that none exist thereon. And further, that he has no interest whatever in the said placer-mine of ....

Subscribed and sworn to before me, this .... day of ..., A. D. 18.. .....

Note.—In case any known mines exist within the exterior boundaries of the placer claim, the names of such known veins should be given.

FORM T.

Protest and Adverse Claim.

United States Land-Office, ... of .....

In the matter of the application of ...., for a United States patent for the .... lode or mining-claim and the land and premises appertaining to said mine, situated in the .... mining district, in .... county, ... of .....

To the Register and Receiver of the United States Land Office at ... and to the above-named applicants for patent for the .... lode.

You are hereby notified that .... of the city of ...., county of...., and .... of ...., and a citizen of the United States of America, is the lawful owner, and entitled to the possession of .... hundred feet of the said .... lode or mine described in said application, as shown by the diagram posted on said claim, and the copy thereof filed in the land-office with said application, and as such owner this contestant, the said....., does protest against the issuing of a patent thereon to said applicant and does dispute and contest the right of said applicant therefor.

And this contestant does present the nature of his adverse claim, and does fully set forth the same in the affidavit hereto attached, marked Exhibit A, and the further exhibits thereto attached, and made part of said affidavit.

The said ..... therefore respectfully asks the said register and receiver that all further proceedings in the matter be stayed, until a final settlement and adjudication of the rights of this contestant can be had in a court of competent jurisdiction.

(Place and date.) ....

EXHIBIT A.

..... *of* ....., *County of* ....., *ss.*

....., being first duly sworn deposes and says, that he is a citizen of the United States, born in the State of ....., and is now residing in ..... ; that he is the contestant and protestant named in, and who subscribed the notice and protest hereto annexed. Affiant further says that he is the owner by purchase and in possession of the (adverse) lode or vein of quartz and other rock in place, bearing ..... and other metals. That the said lode is situated in the ..... mining district, ... county, ..., of .....

[*The history of the lode should be given in full; for instance as follows:*]

This affiant further says, that on the day of location the premises hereinafter described were mineral lands of the public domain, and entirely vacant and unoccupied, and were not owned,

held, or claimed by any person or persons as mining ground or otherwise, and that while the same were so vacant and unoccupied and unclaimed, to-wit:

On the ..... day of ....., 18.., (name locators,) each and all of them being citizens of the United States, entered upon and explored the premises, discovered and located the said .... lode, and occupied the same as mining-claims. That the said premises so located and appropriated consist of .... feet in a ..... erly direction, and .... feet in a.....erly direction, as will fully appear by reference to the notice of location, a duly certified copy whereof is hereunto annexed, marked Exhibit B, and hereby made a part of this affidavit. That the locators, after the discovery of said .... lode, drove a stake on said lode on the discovery claim, erected a monument of stone around said stake, and placed thereon a written notice of location describing the claim so located and appropriated, giving the names of the locators and quantity taken by each, and after doing all the acts and performing all the labor required by the laws and regulations of said . mining district and territory of ...., the locators of said lode caused said notice to be filed and recorded in the proper book of record in the recorder's office in said district on the .... day of ...., 18..

Affiant further says, that the said locators remained continuously in possession of said lode, working upon the same, and within .... months from the date of said location had done and performed work and labor on said location in mining thereon and developing the same, more than .... days work, and expended on said location more than .... hundred dollars, and by said labor and money expended upon the said mining location and claim, had developed the same and extracted therefrom more than ... tons of ore.

And affiant further says, that said locators, in all respects, complied with every custom, rule, regulation and requirement of the mining laws, and every rule and custom established and in force in said . .... mining district, and thereby became and were owners (except as against the paramount title of the United States) and the rightful possessors of said mining-claims and premises.

And this affiant further says, that said locators proved and established to the satisfaction of the recorder of said ..... mining district that they had fully complied with all the rules, customs, regulations and requirements of the laws of said district, and thereupon the said recorder issued to the locators of said .... lode certificates confirming their titles and rights to said premises.

That the said lode was located and worked by the said locators as tenants in common, and they so continued in the rightful and undisputed possession thereof from the time of said location until on or about the .... day of ...., A. D. 18.., at which time the said locators and owners of said lode formed and organized under the laws of the state (or Territory) of ...., and incorporated under the name of the "....," and on the ..... day of ....., A. D. 18. , each of the locators of said lode conveyed said lode and each of their rights, titles and interest in and to said lode, to said ".... ming company."

On the said ..... day of ....., 18... the said company entered into and upon said ... lode and was seized and possessed thereof and every part and parcel of the same, and occupied and mined thereon until the ... day of ...., 18.., at which time the said ... mining company sold and conveyed the same to this affiant, which said several transfers and conveyances will fully appear, by reference to the abstract of title and paper hereto attached, marked Exhibit D, and made a part of this affidavit.

[*In case of individual transfers*]

And this affiant further says that the said ...., who located claim .... northwesterly of the said .... lode, and the said ..., who located claim .... northwesterly thereon, were seized and possessed of said claims, and occupied and mined thereon until the .... day of ..., 18..,' at which time the said ..... and ..... sold and conveyed the same to ...., and thereupon the said .... was seized and possessed of said mining-claims and locations and occupied and mined thereon until the ... day of ...., 18.., at which time the said .... sold and conveyed the same to this affiant, as will fully appear by reference to the abstract of title and paper hereto attached, marked Exhibit D, and which this affiant hereby makes a part of this his affidavit.

Affiant further says, that he is now and has been in the occupation and possession of the said ... lode since the .... day of . , 18.., and that said lode and mining-claims were located, and the title thereto established, several .... before said (applied for) .... lode was located.

Affiant further says, that said ..... lode, as shown by the notice and diagram posted on said claim, and the copy thereof filed in the United States land-office at said .... with said application for a patent crosses and overlaps said .. . lode, and embraces about .... hundred feet in length by ..... hundred feet in width of the said .... lode, the property of this affiant, as fully appears by reference to the diagram or map duly certified by . .., United States deputy surveyor, hereto attached, marked Exhibit C, and which diagram presents a correct description of the relative locations of the said (adverse) lode, and of the pretended (applied for) lode

Affiant further says, that he is informed and believes that said applicant for patent well knew that affiant was the owner in possession and entitled to the possession of so much of said mining-ground embraced within the survey and diagram of said applications, as is hereinbefore stated, and that this affiant is entitled to all the .... and other metal in said (adverse) lode, and all that may be contained within a space of .... feet on each side of said (adverse) lode.

And affiant further says, that this protest is made in entire good faith, and with the sole object of protecting the legal rights and property of this affiant in the said (adverse) lode and mining premises.

Subscribed and sworn to before me, this .... day of ..., A. D. 18.. ....

....

SURVEYOR'S CERTIFICATE.

On the diagram marked Exhibit C, the surveyor must certify in effect as follows:

I hereby certify that the above diagram correctly represents the conflict claimed to exist between the and ... lodes, as actually surveyed by me. And I further certify, that the value of the labor and improvements on the (adverse) lode exceeds five hundred dollars, and said improvements consist of (state in full) ...., U. S. Deputy Surveyor.

(Plans and Data.)

WHITE OAKS.

A portion of New Mexico which is now creating great excitement by reason of the rich mineral discoveries made in it is the White Oaks district. It is thirty miles west and a little to the north of Fort Stanton, in the southwestern part of Lincoln county. The camp is located between two mountain ranges on a level plain, the distance from Las Vegas being about one hundred and sixty miles. The camp has an abundance of timber, pine, cedar and white oak; and water is plentiful in the camp, wells having been dug and water struck at the depth of fifteen feet In addition to these there are three springs of clear and pure water within a distance of two miles from the camp. The lack of water is generally no small drawback to the prosperity of a camp, and here in the first place has White Oaks one important recommendation.

The mineral-bearing formation of this camp is iron, porphyry, sandstone and limestone. In addition to its many rich gold and silver bearing leads, a marble quarry, showing it is stated, marble of the finest and purest quality, has been discovered. A town has been laid out and called White Oaks City, and buildings are going up rapidly. A hotel is also under way.

There are placer diggings in the vicinity which yield on an average thirty cents to the pan. But the principal cause of the excitement is the finding of true fissures. The most famous of these is the Homestake, in which wire gold is visible to the naked eye, and which was found four feet down. The ore runs immensely, and specimens can be found which will yield $20,000 to the ton. The average yield will probably be, however, about $150 to $500 per ton. Other claims have yielded quite well, the "Large Hopes," $150; "Cronin and Baca," $350; the "Little Mac" and "Henry Clay," $60 to $800; "Old Abe," "First Discovery," "Black Prince," "Yellow Hammer," and so on. Over a hundred locations have been made, and men are pouring into the camp from all quarters. In going down on the "Homestake," drill holes and stone hammers were found, supposed to have been left by the Aztecs when they worked the mine.
Carbonates are also found in deposits sufficiently large to create much excitement.

The route from Las Vegas to the White Oaks is as follows: From Las Vegas to the Pecos crossing above Anton Chico, 30 miles; the next water from the Pecos is at Alkali or Pino Wells, 70 miles; from Pino Wells to Jerry Hocradle's, 45 miles; from Hocradle's to Pato Springs, 12 miles, and thence to White Oaks Springs, 12 miles. Six miles beyond Pecos crossing the roads fork. The left hand road is the short cut and long drive without water to Alkali Wells direct. The right hand road is longer with water at short drives, going by Stinking Springs and Antelope to the Pino Wells. From Jerry Hocradle's take the left hand road to go to Pato Springs. The short cut route is preferred. On this route there is a road which turns off to the left and goes by way of Camalion, which is said to be better than by Pino Wells. The above constitute the watering places on the route during the dryest season that has afflicted New Mexico within the memory of the oldest inhabitant. In ordinary seasons water is found much more frequently on the road. Wells are now being dug by the people of Las Vegas which will afford water at short drives.

THE LAND GRANTS.

Las Vegas stands upon a land grant made in 1835 by the Mexican government. The grant contains 496,447 acres, and was originally made by Juan de Dios, Maese and others. As the matter of grants is an important one to all persons in New Mexico, and to all who intend to remove to the territory, it should be understood thoroughly.

The Spanish kings and the Mexican governors used to cede to their favorites, and for purposes of colonization, certain tracts of land, which were known then as "private land-grants" When the United States took the country by conquest, they agreed, by the treaty which was signed in 1848 at a small town called Guadaloupe Hidalgo, to sustain all these property rights. The stipulation, which is in the eighth article reads:

Mexicans now established in territories previously belonging to Mexico, and which remain for the future within the limits of the United States, as defined by the present treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican Republic, retaining the property which they possess in the said Territories, or disposing thereof and removing the proceeds wherever they please, without their being subjected on this account to any contribution, tax or charge whatever. * * In the said Territories property of every kind now belonging to Mexicans not established there, shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may hereafter acquire said property by contract, shall enjoy with respect to it guaranties equally ample as if the same belonged to citizens of the United States.

Another treaty, signed Dec 30, 1853, commonly known as the Mesilla Valley treaty, or the Gadsden purchase, deputates in its fifth article that—

All the provisions of the eighth * * article of the treaty of Guadaloupe Hidalgo shall apply to the territory ceded by the Mexican republic in the first article of the present treaty, and to all the rights of persons and property both civil and ecclesiastical, within the same, as fully and effectually as if the said articles were herein again recited and set forth.

This law of congress of August 4, 1851, extended the federal and territorial civil jurisdiction over the additional territory acquired by the treaty of 1853, whereby the treaty of Guadaloupe became operative also over the Gadsden purchase.

Before the grantee can have title to his grant, it must be confirmed by congress. No time has ever been set within which the owners of grants must apply for confirmation or lose all right to their grant, and the result is that only a small portion of grant owners have asked to have their rights fully vested in themselves The confirmation by congress is of course to prevent men from

taking fraudulent grants; very few such have been discovered in Mexico, but California has been filled with them. About two hundred private grants, and twenty-five pueblo grants—of which mention will be made later—have been presented, and forty-six have been confirmed.

The following table shows the

CONFIRMED GRANTS,

to whom they were originally granted, when the grant was made, and by what government, and, so far as the United States reports show, the number of acres in each grant:

TRACT KNOWN AS THE	ORIGINAL GRANTEES.	MADE IN	MADE BY	ACRES
Beck, Preston, jr	Juan Estevan Pino	1823	Mexico.	318 700
Tomé, Town of	Juan Barela, et al	1759	Spain.	121,595
Tierra Amarilla	Manuel Martinez & Sons	1832	Mexico.	
Sangro de Cristo	Luis Lee and Narciso Beaubien	1843	do	
Casa Colorado, Town of	Rafael Gutierrez, et al	1823	do	
Brazito	Juan A. Garcia, et al	1823	do	
Tecolote, Town of	Salvado Montoya, et al	1824	do	21,637
Los Trigos	Francisco Trujillo, et al	1815	Spain.	12,546
La Junta	John Scolly, et al	1846	Mexico.	
Lady of Light	Carlos de Herrerra	1820	Spain.	16,587
Chiili, Town of	Santiago Padilla, et al	1841	Mexico.	38,435
Agua Negra	Antonio Sandoval	1824	do	
Belen, Town of	Diego Torres Salazar, et al	1740	Spain.	194,664
San Pedro	Jesus Mieva, et al	1839	Mexico.	31,595
Cimarron	Beaubien and Miranda	1841	do	
Los Esteros	Pedro Jose Perea	1825	do	17,71½
Las Animas	Vigil and St. Vrain	1843	do	
Cañon de Pecos	Juan de D. Pena, et al	1815	Spain.	
Eaton, E. W	Domingo Fernandez	1827	Mexico	27,354
Numbers one & two Baca heirs	Luis Maria C. de Baca	1860	United States	99,[illegible]89
Las Vegas, Town of	Juan de Dios Maese, et al	1835	Mexico.	496,447
Tajigue, Town of	Manuel Sanchez, et al	1834	do	
Torreon, Town of	Nerio A. Montoya, et al	1841	do	
Manzano, Town of	Jose M. Trujillo, et al	1829	do	
San Isidro, Town of	Armenta and Sandoval	1786	Spain.	
Cañon de San Diego	F. & A. Garcia de Norgua, et al	1798	do	
Las Trampas, Town of	Juan de Arguello, et al	1751	do	
Martin, Sebastian,	Sebastian Martin	1712	do	
Anton Chico, Town of	Salvador Tapia, et al	1822	Mexico.	383,633
Laguna Pueblo, lands of	Indefinite		do	
Ortiz, Gaspar,	Vincente Duran de Armigo	1739	Spain	
Mora, Town of	Jose Tapia, et al	1835	Mexico.	827,621
Armendariz, Pedro	Pedro Armendariz	1820	do	397,235
Armendariz, Pedro	Pedro Armendariz	1820	do	119,933
Bosque del Apache	Antonio Sandoval	1845	do	60,117
Chamita, Town of	Antonio Trujillo	1724	Spain.	
Tejon, Town of	Salvado Berreras, et al	1840	Mexico.	
Vigil Ramon	Pedro Sanchez	1742	Spain.	
Cañon del Agua	Jose Serafin Ramirez	1844	Mexico.	3,501
Montoya Pablo	Pablo Montoya	1824	do	655,468
Gallinas	Antonio Ortiz	1819	Spain.	
Ortiz mine	Ortiz and Cano	1833	Mexico.	64,458
Espiritu Santo spring	Luis Maria C. de Baca	1815	Spain.	
Cevolleta, Town of	Francisco Aragon, et al	1807	do	
Leroux, Antonio	Pedro Vigil de Santillana, et al	1743	do	
Nolan, Gervacio	Gervacio Nolan	1843	Mexico.	

The Las Animas and Gervacio Nolan grants, and parts of the Sangre de Cristo and Cimarron grants are in Colorado. The latter is the famous Maxwell grant—its name having been changed—and contains about two million acres.

There is a vital difference between the confirmed and unconfirmed grants. When the grants which are already confirmed were presented to congress for action twenty years and more ago, New Mexico was a far distant and an unknown land. It was comparatively on the other side of the world, congress probably thought it would never amount to much; and that attention was not given to the law of the case that it deserved Some of the claimants represented that the grant included not only the right to the grazing and agricultural uses of the land, but also to the mineral in it: and the United States in confirming the grants, assumed that this was true, and supposed that under the treaty of Guadaloupe Hidalgo they must give the grantees any mines found on the grants Accordingly, this government quit-claimed its right to the mineral on all the grants which it confirmed In doing this, however, a grievous error was made. It has since been learned that the former governments did not include the mineral when they made a private grant but expressly reserved it This point has been fully established in the suits which have been brought in California over the grants. For example, in 17 California, 199, Moore vs. Smaw,

It is stated that "In Spain, under the law of the Partida, the property of the mines was so vested in the king that they were held not to pass in a grant of the land, although not excepted out of the grant; and even though included in it, the grant was valid as to the mines, *only during the life of the king who made it*, and required confirmation by his successors." At the bottom of the same page in a note the law is quoted to the effect that Law 5, title 15, Partida 2, in enumerating the things which were not conveyed in a grant of land, says:

And mines, if there be any; and although it be not mentioned in the grant that the king retains to himself the things above-mentioned, yet it is not, therefore, to be understood that he to whom the grant is made acquires a right to them. Moreover, if the king should make over all these things to him by the grant, even then he cannot hold or use them, except during the life of the king who made the grant, and of any other king who may please to confirm it.

The same principle is set forth in "Rockwell's Spanish and Mexican law," page 126, and it seems to be now clearly understood that in future the United States will, in fact, uphold the rights of grantees, ceded by former governments; that is, this government will sustain the grantees in their right to the agricultural and pastoral use of the land, but it will not quit-claim its right to any more mineral. Different views are entertained, but this seems to be the one most generally held.

Of course, the owners of confirmed grants have their right to the mineral, and it cannot be taken away. If a prospector finds a mine on a confirmed grant, he will have to pay the owner of the grant a royalty for the privilege of working it. If a stock-raiser range his cattle on confirmed grants, he will probably have to pay ground rent, or pasture rent. But on unconfirmed grants, both classes are, for the present, at least, safe from these taxes. If a miner has discovered mineral on an unconfirmed grant, let him not be terrified into giving the owner of the grant a share or a royalty. Let him stand his ground and fight for his right, and he will win. And a stock-raiser cannot be made to pay rent until the grant is confirmed. Men going into New Mexico will do better therefore to go to the public lands and unconfirmed grants to prospect and to herd stock. The confirmed grants occupy hardly one-twentieth of the State, and they are nearly all in the northern and central part, so that there is plenty of room.

The value of the land has been different at different times, but it has never been very high. Unconfirmed grants have been sold by the tens of thousands of acres, at three cents an acre. On the other hand, the Cañon del Agua and the San Pedro grants, in the Cerillos, comprising about thirty-six thousand acres were once sold for $200,000; a Boston company has recently purchased them, and it claims to have paid $800,000 for them, which is about $26 per acre. Prices vary, as the reader sees, according to circumstances!

THE INDIAN PUEBLO GRANTS,

—"Pueblo" means town or village—were a series of grants distinct from the private land-grants, and were made to the inhabitants of towns, principally that the inhabitants might own their own town sites. Eighteen have been confirmed. The following table shows which these are.

They were all made by Spain, mostly in the year 1689, and were confirmed by the United States in 1859, except the last, which was confirmed in 1876.

TRACT KNOWN AS THE INDIAN PUEBLO OF	ORIGINAL GRANTEES.	MADE IN	MADE BY	ACRES
Jemez	Inhabitants of the pueblo.	1689	Spain.	17,510
Acoma	do	do	do	
San Juan	do	do	do	17,515
Picuris	do	do	do	17,4[illegible]0
San Felipe	do	do	do	24,767
Pecos	do	do	do	18,763
Cochiti	do	do	do	24,257
Santo Domingo	do	do	do	74,473
Taos	do		do	17,361
Santa Clara	do		do	17,[illegible]69
Tesuque	do		do	17,471
San Ildefonso	do		do	17,253
Pojoaque	do		do	13,520
Zia	do	1689	do	17,[illegible]14
Sandia	do	174[illegible]	do	24,187
Isleta	do		do	110,080
Nambe	do		do	13,586
Santa Ana	do	17[illegible]	do	

The unconfirmed Indian pueblo grants are, Laguna, Zia, Santa Ana, Jemiz, San Cristoval, and Zuni. The unconfirmed private grants are too numerous for mention, and in fact only a part of them have ever been presented for confirmation.

STAGE LINES FROM SANTA FE.

There are at present two stage lines from Santa Fe. One, the Overland Mail and Express company, runs a daily buckboard for Conejos, Col., connecting with the Denver and Rio Grande road for Alamosa. The fare to Alamosa is $21; fifty pounds of baggage are allowed, and seven cents per pound is charged for freight to Conejos. The distance to Conejos is one hundred and eleven miles, and to Alamosa one hundred and forty-two. The stages of this line pass the Ojo Caliente springs.

The other is the Star Line Mail and Transportation company, running to Prescott, Arizona. The fare between Santa Fe and Prescott is $75, and for less distances fifteen cents per mile. The distance to Prescott is five hundred and seven miles, and the distance from Santa Fe to intervening stations and between the stations is shown in the following table:

	MILES.	
Pena Blanca	27	...
San Isidro	27	54
Cabazon Station	22	76
Willow Springs	28	104
San Mateo	16	120
San Antonio Springs	27	147
Bacon Springs	16	163
Fort Wingate	13	176
Peter's Station	35	211
Buckeye	19	230
Navajo Springs	23	253
Carrizo Creek	24	277
Horse Head Crossing	22	299
St. Joseph	15	314
Canvas Store	14	328
Brigham City	13	341
Rock Station	14	355
Chaves' Pass	25	380
Pine Springs	22	402
Oak Grove	19	421
Beaver Head	23	444
Camp Verde	15	459
Copper Cañon	8	467
Milterbrand's Station	24	491
Prescott, A. T.	16	507

Passengers are allowed forty pounds of baggage, and, for all over that, eight cents per pound for each one hundred miles. The stages run five miles per hour, and the time through is ninety-six hours.

Passengers can, if they choose, go by the Atchison, Topeka & Santa Fe road to Albuquerque, and take the stage thence for Prescott, going via Fort Wingate. By this route the distance is forty-seven miles less. From Prescott daily communications by other stage lines can be had with Phoenix, Gillette, Maricopa, Florence, Globe, Mohave City, Tucson, the Tombstone mining district, and the San Carlos Indian reservation and agency.

STAGE LINES FROM ALBUQUERQUE.

There are two stage lines from Albuquerque, one for Prescott, already spoken of in the article on Santa Fe, and the National Mail and Transportation company for Tucson. The time of the latter is a little over five days, the rate of travel five miles per hour, the fare fifteen cents per mile. The following table shows the distances between stations, and the distances from Albuquerque:

	MILES.	
Pajarito	9	...
Isleta	6	15
Las Lunas	5	20
Belen	12	32
Sabinal	23	55
Socorro	27	82
San Antonio	10	92
San Marcial	13	105
Fort Craig	7	112
Paraje	8	120
Round mountain	23	143
Aleman	22	165
Point of Rocks	20	185
Fort Seldon	20	205
Leesburg	5	210
Dona Ana	5	215
Las Cruces	17	232
La Mesilla	3	235
Slocum's ranche	25	260
Fort Cummings	20	280
Hot Springs	20	300
Fort Bayard	41	341
Silver City	9	350
Burro mountain	25	375
Shakespeare	25	400
Camp Bowie	61	461
Steel station	25	486
Point of Mountain	12	498
Tres Alamos	35	533
Willow Springs	20	553
Tucson	27	580

Each passenger is allowed the usual forty pounds of baggage, and freight is eight cents per pound for every one hundred miles. At Mesilla the line connects for El Paso and other Texas points, and for Hillsboro and other points in old Mexico. At Silver City connections are made for Globe City, Arizona; at Point of Rocks for Fort Thomas and Fort Grant, New Mexico; and at Tucson for Tombstone, Phoenix, Florence and Arrivaca, Arizona.

LAS VEGAS.

This celebrated city consists really of two towns, situated in a plateau, and surrounded by mountains. The "old town," the original Las Vegas, is half a mile from the other, and consists of adobe houses built around a plaza in true Spanish or Mexican style. The new town is of frame houses, and was caused by the railroad. Las Vegas is a good business place, being a heavy trading point for cattle and sheep men, and for miners in the famous White Oaks and other districts.

The mineral prospects of Las Vegas are good. A copper mine has been discovered about fifty-five miles southwest, and west of the city near Aqua Sarca some new indications are showing up well. Other discoveries are also being made west.

THE STAGES.

Stages leave Las Vegas for Las Cruces, going via Anton Chico, Gallinas Springs, Santa Rosa, Puerto de Luna, Fort Sumner, Roswell, Lincoln, Fort Stanton, South Fork and Tularosa.

The fare to Las Cruces is $44, and the way fare is ten cents a mile. Stages leave daily for Vinita, going by La Liendre, Chaperito, Gallinas, Cabra, La Cinta, San Hilario, and Fort Bascom. From Fort Bascom a daily stage leaves for Fort Elliott.

TO ASSAY CARBONATES.

To assay carbonates of silver and lead, take the mineral or quartz, pulverize it, put it in a crucible or a common clay pipe, put in as much common salt as mineral; let it come to a boil. When it cools the silver and lead will be in the bottom, silver the lowest. To separate the lead from the silver put it in a bone dust cup and melt: the lead will absorb into the cup, leaving the silver and gold, to separate the latter boil it in nitric acid and this will leave the gold.

A DIGEST OF MINING LAW.

Under the above heading, we find a paper prepared by a well known Colorado lawyer for the Denver *Tribune* recently, which covers many points about which we have been frequently questioned, so we give hereinafter the whole "digest," as it appeared in our Denver exchange:

"The first act of Congress relating to mining locations, was passed in 1866. In 1870 the first placer law was enacted. Prior to 1866, the miners made their own laws for their respective districts, and these laws, when not in conflict with any State or Territorial statute, were recognized and enforced by the courts. In Colorado, the size of lode claims is not uniform in all counties, being in the older counties of Gilpin, Clear Creek, Boulder and Summit 1,500 by 150, and in others 1,500 by 300 feet.

"The location of fissure veins, to be valid, must be upon the vein, and the side-lines must be equi-distant from the centre of the vein. Consequently, if at any point along the side-lines the vein departs from the surface boundaries, the location beyond such point is defeasible, if not void.

Or, if the vein is not found along the centre of location, lengthwise, so that the distance by either side line is greater than half of the width, the excess cannot be held by the locator.

The vein is the basis of location, and the surface ground is only incidental. Notwithstanding the location certificate claims, the lode along the vein thereof, with all its dips, variations and angles, such angles or variations as take the vein outside the side lines cannot be followed. But on the "dip" of the vein, i. e., its departure from the perpendicular in its downward course, the claimant may go outside of his side lines, provided that he has the top or apex of the vein within his boundaries.

The first requisite of a valid mining claim is the discovery of mineral "in place," and until that is done, a claimant has no security in his possession. Mineral in place means that which is found in the place where first deposited, as distinguished from "float," or such as has been detached from its native place. The latter can be made the basis of a placer claim only.

Where land is of such a character that it can be taken up either as a lode, or as placer ground, it cannot be taken as a placer so as to include a vein or lode, the existence of which is known to the claimant. To do so would be a fraud on the government, since a placer embraces a territory twice larger than a lode claim and may be had for half the price per acre.

"Discovery alone gives title for the time allowed by law for the completion of location and record; and after location and record have been made the title still relates back to the time of discovery." 2 Colorado, page 300.

So that a title of later record may be better than one of earlier date, where the former has the first discovery. Patterson vs. Hitchcock, 3 Colorado, 538.

For this reason it is advisable to have the date of discovery expressed in the location certificate. But such inceptive title may be lost by failure to make location and record in proper time and an intervening location and record.

The actual possession of any part of the public lands gives good title to the possessor as against a mere trespasser; that is, one who has not a better right. But as such possession embraces only so much as is actually occupied, not necessarily the entire area of a mining claim. Abandonment is a question of intention to be proved by the relocator.

A neglect to do the annual labor as required by law, leaves a claim open to relocation.

But neglecting to do the annual labor, does not work a forfeiture of the claim, unless after such neglect and before the original locator has resumed work, another has located the claim, and after re-entry of the first locator, the title relates back to the first location.

But if the first locator finds another possession, who is making or about to make a location such re-entry is not sufficient to dispossess the latter and re instate the former, but he must finish his annual labor for that year before the location of the other shall be completed. (See Morrison's Mining Rights, page 60.

There is some difference of opinion as to when the annual labor shall be performed.

The law says that, not less than one hundred dollars worth of labor shall be performed or improvements made during each year, and the general interpretation has been that the annual period dates from the time of the location, but it has been decided recently by the Land Department, that the assessment work is to be done during the calendar year; i. e., from January to January, so that the safe way would be to follow that course. The work expended in making the location counts as part of the first annual labor. After entry of application for patent, no annual labor is required, since the patent, when issued, relates back to the date of entry.

The miner's title is not a vested right, prior to the obtaining of a patent—that is, no estate exists in him, except such as may be revoked by the Government. The reason is, that nothing is paid for mineral lands until application for a patent is made, and it is not to be presumed that the United States has parted with its title without consideration. It follows that mining claims should not be conveyed by warranty deed without a saving clause against the United States. It is not probable, however, that any material changes will be made with respect to past locations.

Such a course, though constitutional, would be very unwise and oppressive, besides being a fruitful source of confusion and litigation.

But for the sake of security; and to dispose of all conflicting claims, it is always advisable, where the claim is valuable, to procure a patent as soon as practicable. The land department issues a patent to the first applicant, without regard to priority of location, where no adverse claim has been filed within the period of publication. CHARLES S. WILSON.

HISTORICAL SKETCH OF NEW MEXICO.

New Mexico is at once the oldest and the newest region of our country. The valley of the Rio Grande was settled by the Spanish thirty years before the Pilgrim Fathers landed on Plymouth Rock, and the first Spaniards who entered New Mexico antedate the settlement of New England by nearly a century. And yet New Mexico is the newest, the least known, the least written about of all our Territories and it is only within the short period since the advent of the Atchison, Topeka & Santa Fe within its borders that New Mexico has begun to attract any general attention from the outside world. It may now be looked upon, when compared with Colorado, for instance, as an unknown country of vast yet undeveloped resources.

It was to certain survivors of the ill fated expedition of Narvaez to Florida that the world was indebted for its first information as to New Mexico. Narvaez with a few hundred Spanish followers landed at Tampa Bay, Florida, in 1528. His experience with the country and the natives did not encourage him to make a protracted stay in that region; indeed, it became a question with him soon how to escape from it as best he might with those of his followers who had survived fighting, hunger, and disease. With infinite difficulty the Spaniards constructed rude boats and attempted to coast along the gulf until they should reach the Spanish settlements of Mexico. One of these boats was commanded by a Spanish cavalier of renown, Alvar Nunez Cabeza de Vaca, who became the first explorer of New Mexico. His boat was cast ashore with one other on a low island off the coast of Louisiana. Of the Spaniards thus shipwrecked a few only survived the exposure and hunger which ensued, among them Vaca, who with three or four others gained the mainland and after varied experience with the Indian tribes wandered into New Mexico, became acquainted with the natives of that Territory (who seem to have been of a much superior order to those of the Gulf and Texan region) and finally emerged into Mexico and reached the town of Culiacan in 1536, about eigth years after his shipwreck. Vaca lived familiarly with more than one of the native tribes of New Mexico, and there are those in the Territory now who bear his name and claim to be his descendants.

His report as to the country through which he had passed stimulated considerable interest in Mexico, and a few years later, in 1540, the famous expedition of Coronado was sent out to explore these regions. Coronado went through a great deal of the Territory. He commanded a very distinguished band of four hundred men, among them many Spaniards of high rank, and Indian servants and camp followers who attended his expedition swelled the numbers to about

fifteen hundred. We have no distinct record of any settlements made by this expedition but it is certain that many who entered the Territory never came out with him; indeed he had hardly a hundred followers with him when, three years later, he returned to Mexico, and it is altogether probable that Spanish settlements were made by those who deserted or left the expedition in one way or another during its sojourn in the Territory. The settlement of the country was one object of the expedition and horses and cattle were taken with it into the Territory. Its leading purpose however was the search for gold and wealth. New Mexico had been previously known by tradition and exagerated reports as the country of the "Seven Cities," and a region of vast wealth. It was called "Cibola" also, or the buffalo country--a name, by the way, which would be preferable to that of New Mexico. Coronada was disappointed in his search for gold and wealth but his expedition made the beginning of Spanish settlement in the Territory. Forty years later, in 1581, Augustin Ruiz, a Franciscan friar, and two of his order went into the Territory and after sundry vicissitudes were killed by the natives. In 1582 Antonio de Espejo led an expedition in search of the friars, returning in 1584.

In 1591 Juan de Onate, with seven hundred soldiers and one hundred and thirty families, entered New Mexico and established settlements and from that date the country may be said to have passed into the hands of the Spanish. With Onate's expedition came persons skilled in mining and working of metals and the mineral resources of the country were looked after and developed, and for nearly a century the Spaniards continued to settle the country and dig out its gold and silver. This period was the most productive in the history of New Mexico. The valley of the Rio Grande was cultivated, cattle and sheep grazed upon the surrounding hills and plains and the hidden treasures of the mountains were unlocked. Untold millions of silver and gold were mined and it is on record that a single mine between 1590 and 1680 produced one hundred millions of silver. For several reasons however during this period the natives became discontented with Spanish rule: Their religion was interfered with and they were reduced to a condition of semi-servitude. In mining particularly they were treated as slaves and compelled to work the mines without fair recompense. After several unsuccessfel efforts at rebellion in 1680 the native tribes united and were successful in throwing off the Spanish yoke. The Spaniards were driven from the Territory and it was not until 1700 that they regained possession of the country and then only on the basis of a compromise which involved the discontinuance of mining. The mines were filled up during the rebellion and all traces of them, so far as possible, obliterated. They were not reopened and up to the present day there has been no considerable development of the mining interests of the Territory.

The history of New Mexico from the year 1703, the date of the pacification after the great Indian rebellion until 1849 was comparatively uneventful. The valleys were extensively cultivated; cattle and sheep were raised subject only to the drawback of occasional Indian raids upon the flocks and herds. But the Indians were generally wise enough in their day and generation not to steal enough to discourage cattle and sheep raising seriously. They knew enough not to kill the goose that laid the golden eggs.

In 1849, at the close of the Mexican war, New Mexico passed into the hands of the United States. The transfer involved no sudden change in its condition. A few Americans have since held leading postions, official and commercial, in the Territory, but German Jews have hitherto, as for some time before the change of nationality, monopolized a large share of the trade of the country. With the entrance of railroads into the Territory and the influx of the American element, now beginning to pour in, New Mexico enters upon a career of development and prosperity which is destined to make it ultimately a leading State in the Union

GLOSSARY.

DICTIONARY OF MINING TERMS.

The following are the principal terms in common use among miners:

ADIT.—A level, a horizontal drift or passage from the surface into a mine.

ALLUVIUM —A deposit of loose gravel between the superficial covering of vegetable mould and subjacent rock.

AMALGAM.—Gold or silver combined with quicksilver.

ARASTRA (Mexican).—A circular combination in which ore is ground to powder by attrition of heavy stones.

ASSAYING.—Finding the percentage of a given metal in ore or bullion.

ASSESSMENT —Amount levied on capital stock.

BARREN CONTACT.—A contact vein, or a place in the contact vein, which has no mineral.

BASE BULLION.—Precious metals contained in lead.

BED ROCK.—The formation underlying pay dirt.

BLENDE.—An ore of zinc, consisting of zinc and sulphur.

BLIND LODE.—A lode having no outcrop.

BLOSSOM ROCK.—Float ore, found upon the surface or near where lodes or ledges outcrop and from which they have become detached.

BONANZA.—Fair weather; a mine is said to *en bonanza* when it is yielding a profit. It is a Spanish term meaning good luck, and is often used to mean a large body of ore.

BREASTING ORE —Taking ore from the face, breast, or end of a tunnel.

BULLION.—Precious metals, gold and silver not coined.

CAGE.—The elevator used for hoisting and lowering the ore cars, men and materials of a mine.

CAP ROCK —Formation overlaying the ore or vein stone

CARBONATE.—A geological formation which carries silver ore, and runs from 5 to 75 per cent. of lead—whence its name—and the rest, dirt, gravel, sand, arsenic, sometimes a little gold and other minerals. It varies in appearance from ordinary wet soil to hard glistening rock.

CARBONIFEROUS.—Containing coal.

CLAIM.—A piece of land twenty-five to three hundred feet wide and fifteen hundred feet long, which the government sells to the man who finds mineral within its limits.

CHLORIDES.—A compound of chlorine and silver

CHUTE —An inclined channel through which ore slides.

CONGLOMERATE.—Pudding stone, composed of gravel and pebbles cemented together.

CONTACT.—A touching, meeting, or junction of two different kinds of rock, as porphry and slate.

CONTACT VEIN.—A vein along the contact plane of, or between two dissimilar rock masses.

CREVICE.—A narrow opening, resulting from a split or crack: a fissure.

CRIBBING.—A timber or plank lining of a shaft; the confining of a wall-rock.

CORD OR ORE.—128 cubic feet of broken ore; about seven tons in quarts rock.

COUNTRY ROCK.—Rock on either side of a lode or ledge, usually barren—the permanent rock enclosing a vein.

CROPPINGS.—The rock that appears on the surface indicating the presence of a lode

CROSS CUT.—A level driven across the course of

a vein.
CUPRIFEROUS.--Containing copper
DEBRIS.--Sediment from mines.
DENUDATION.--Rocks laid bare by running water,or other agencies.
DEPOSIT.--A body of ore distinct from a ledge.
DIGGINGS.--Name applied to placers being worked.
DIP.--The slope, pitch or angle, which a vein makes with the plane of the horizon.
DILUVIUM.--A deposit of superficial sand, loam, pebbles, gravel, etc.
DRIFT.--A horizontal passage underground.
DUMP.--The pile of ore or debris taken from mines, or tailings from sluicing.
END LINES.--The lines bounding the ends of a claim.
FACE.--End of level or tunnel against the ore or rock.
FATHOM.--Six feet square on the vein.
FEEDER --A small vein joining a larger one.
FISSURE VEIN.--A fissure or crack in the earth's crust filled with mineral matter. The two walls are always of the same geological formation.
FLOAT.--Loose rock or isolated masses of ore, or ore detached from the original formation.
FLUX.--The flow of the ore in the furnace of the smelter. To "flux" mineral is to get it so it will melt and run. It is obtained by adding to the ore certain proportions of other minerals, as of coke, coal, or iron.
FLUME.--Boxing or piping for conveying water.
FOOT-WALL.--The layer of rock immediately under the vein.
FORFEITURE --A failure to comply with the laws, prescribing the quantity of work.
FREE GOLD.--Gold easily separated from the quartz or dirt.
GALENA.--Lead ore; sulphur and lead.
GANGUE.--The substance inclosing and accompanying the ore in a vein.
GASH VEIN.--A vein wide above and narrow below.
GEODE.--A cavity studded around with crystals or mineral matter; a rounded stone containing such a cavity.
GULCH --A ravine.
GRIZZLEY.--Bars set in a flume to strain out the large stones used in hydraulic mining.
HANGING WALL.--The layer of rock or wall over a lode.
HARD CARBONATE.--Carbonate ore so hard that it has to be blasted out, or picked out with much difficulty. It is a mineral, the iron and lead of which are but little oxydized and carbonated by contact with the lime.
HEADING.--The vein above the drift.
HEADINGS.--In placer-mining, the mass or gravel above the head of sluice.
HIGH GRADE ORE --See low grade ore.
HORSE --A mass of rock matter occurring in or between the branches of a vein.
INCH OF WATER.--About two and a half cubic feet per minute, the water that will run out of an opening one inch square, or section under head of six inches.
INCLINE.--A slanting shaft.
IN PLACE.--A mineral is "in place" when it is where it geologically belongs. Mineral in the carbonate vein is "in place," but mineral found lying loose on the mountain side, in large rocks, for example, or lodged in the porphyry under ground, is not "in place." A man may strike mineral, but if it is not "in place" he is apt to be deceived as to the extent of his discovery.
JUMPING A CLAIM.--Relocating a claim on which the required work has not been done.
LEVEL.--A tunnel cut on the vein from main tunnel. A drift.
LEDGE.--A lode or vein.
LITTLE GIANT.--A movable nozzle attached to hydraulic pipes
LOCATE.--To establish the possessory right to mining claim; the property secured being designated "claim" or "location."
LODE.--Justice Field, of the United States supreme court, has defined it to be any zone or belt of mineralized rock lying within the boundaries clearly separating it from the neighboring rock. It includes all deposits of mineral found through a mineralized zone or belt, coming from the same source, impressed with the same forms, and appearing to have been created by the same process.
LOW GRADE ORE.--Ore which runs below twenty ounces of silver to the ton, 50 per cent. of the ton being lead. Ore which runs more silver, with 50 or more per cent. of lead is "high grade" ore, yet a high per cent. of lead is necessary to make it high grade ore For example, ore with one hundred ounces of silver to the ton, but with no lead, would rank low grade, as the smelting would cost so much as to leave little profit to the miner.
MILL RUN.--A test of quality of ore after reduction.
OUTCROP.--That portion of a vein appearing at the surface.
PAN OR PANNING.--Usually to wash the dirt from the free gold with a pan; the pan resembles an ordinary milk pan.
PATCH.--A small placer claim.
PETERING.--Ore giving out
PILGRIM --Fresh arrival from the east or "states."
PITCH --The same as dip
PIPING --Washing gravel in a hydraulic claim by discharging water upon it through a nozzle.
PLACER.--A gravelly place where gold is found; includes all forms of mineral deposits excepting veins in place.
POCKET.--A rich spot in a vein or deposit. Sometimes an entire claim contains but one or two pockets, which makes it less desirable
PORPHYRY.--A rock consisting of a compact base, usually feldspathic, through which crystals of feldspar are disseminated.
PRIMARY OR PRIMATIVE ROCK.--Consists of the various kinds of slate, quartz, serpentine, granite, and gneiss; they are the lowest group of rocks, are irregularly crystallized, and contain a few animal relics.
PROSPECT.--The difference between a mine and a prospect, though entirely clear to the miner is but vaguely comprehended by those unfamiliar. For the advisement of the latter the following examples are given, with mining idioms. To begin with, there are, in Colorado, at least, three distinct classes of mines and prospects. First, and preponderant at the present time, "true fissure" veins, abundantly illustrated in the counties of Gilpin, Clear Creek, Boulder, Park, and in the San Juan mountains. Second, the mineral deposits in horizontal strata, as in Mounts Lincoln and Bross; and, third, the carbonate formations about Leadville, in the Dolores and Gunnison districts, and in Summit

county, along Ten-Mile and the Eagle river. The true fissure penetrates the earth crust vertically, or at various angles from ten to forty or fifty degrees, and is a vein of mineral "in place," that is to say, in a fixed position, and according to the accepted theory, practically inexhaustible. The carbonate formations are, as a rule, horizontal deposits in contact veins between two distinctive geological formations—as porphyry and limestone. A mine as distinguished from a mere prospect, is something which has produced, and is capable of producing valuable material, demonstrated not by a shaft alone, but by levels, stopes, adits or drifts along the vein, developing the strength and character of the mineral body it contains. Whether the shaft be fifty or five hundred feet deep, it is not a mine in the legitimate sense, until these developments have occurred, and its value thus established. The shaft is a form of prospecting. A tunnel on the vein, instead of by-shafting is of the same nature. The levels and stopes constitute the development from which the profits are derived. A shaft rarely produces sufficient ore to pay for the cost of sinking, and it is the central point from which the explorations are conducted. A fissure prospect is a surface excavation which uncovers the vein. It cannot be lawfully claimed as a location until the vein is exposed and its walls defined It does not, as in the carbonate fields, acquire the slightest prestige or value as a prospect from its proximity in parallel line to noted producers. It must rest upon its own merits solely, regardless of the treasures on either side of it, and its owner must rely solely upon development for the demonstration of its value. A carbonate prospect, on the contrary, derives both prestige and value from its relation to surrounding claims in which large bodies of rich mineral have been exposed. Vast sums have been invested in this class of ventures. Many of them will prove extra hazardous, but a very large number will undoubtedly return abundant harvests in good time. Hundreds are taking the chances, and in the results lie the future of the carbonate camps.

PROSPECTING.—Hunting for mineral lodes or placers.

PULP.—Pulverized ore in the lixivation process.

REDUCING.—Separating from foreign substances; the reduction of ores consists in extracting from them the metals they contain.

SALTING A MINE.—Placing mineral or ore in barren places to swindle.

SHAFT.—A vertical or inclined excavation for purposes of prospecting or working mines.

SIDE LINES.—The lines which bound the sides of a claim.

SLAG.—Scum, dross, the excrement of a metal; vitrified cinders, waste from smelters.

SLIMES.—The finest of the crushed ore and gangue from mills.

SLUICES.—Boxes or troughs through which gold-bearing gravel is washed.

SMELTING.—Reducing the ores in furnaces to metals.

SOFT CARBONATE.--Silver-bearing mineral so soft that it can be readily taken out with a pick and shovel. It is usually sand impregnated with mineral, the mineral having been carbonated and oxydized. Soft carbonates are usually richer in silver than hard carbonates.

STAMPS.--Machines for crushing ores.

STOPE.--A body or column of minneral left by running drifts about it.

STOPING.--The act of breaking down a stope and excavating it with a pick.

STRATA.--A series of beds of rock.

STULL.--Platforms of timber between levels for strengthening the mine by supporting the walls, and for storing ore and depositing wall rock and waste material upon.

STULL TIMBERS.--The large timbers placed across the vein or lode from one wall to another, to support the lagging upon which the ore or waste is placed.

STRIKE.--A find; a valuable mineral development made in an unexpected manner.

SULPHURET.--Combination of sulphur with a metallic, earthy or alkaline base.

SUMP OR SUMPH.--A pit sunk at the bottom of a mine to collect the water. It may be the bottom of a shaft.

SUPERFICIAL DEPOSITS--Are composed of such metals and ores as lie on or near the surface, intermixed with soil, sand, gravel, etc.; they are also called washings or stream works, these metals and ores being gathered by washing with water; much gold, all platina, and some tin and cinnabar are collected in this manner.

TAILINGS --The auriferous earth that has once been washed and deprived of the greater portion of the gold it contained.

TUNNEL.--A level, driven at right angles to the vein. which its object is to reach.

VEIN.--Aggregations of mineral matter in fissures of rock.

WALLS.—The sides next to the lode.

WASH.—The first geological formation, being composed of earth, sand, gravel, and other minerals "washed" down from the mountains during a long series of ages.

WHIM.—A machine for raising ores and refuse.

WINZE.—A shaft sunk from one level to the other.

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